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TITLE 7—AGRICULTURE

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[Tobacco 13, Part I (1949)]

PART 725—BURLEY AND FLUE-CURED TOBACCO

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AUTHORITY: §§ 725.511 to 725.527, inclusive, issued under 52 Stat. 38, 47, 66; 53 Stat. 1261; 54 Stat. 392; 56 Stat. 51; 57 Stat. 387; 58 Stat. 136; 60 Stat. 21; 7 U. S. C. 1301 (b), 1313, 1375.

GENERAL

§ 725.511 *Basis and purpose.* The regulations contained in §§ 725.511 to 725.527, inclusive, are issued pursuant to the Agricultural Adjustment Act of 1938, as amended, and govern the establishment of 1949 farm acreage allotments and normal yields for Burley and flue-cured tobacco. The purpose of the regulations in §§ 725.511 to 725.527, inclusive, is to provide the procedure for allocating, on an acreage basis, the national marketing quota for Burley and flue-cured tobacco for the 1949–50 marketing year among farms and for determining normal yields. Prior to preparing the regulations in §§ 725.511 to 725.527, inclusive, public notice (13 F. R. 3126) was given in accordance with the Administrative Procedure Act (60 Stat. 237). The data, views, and recommendations pertaining to the regulations in §§ 725.511 to 725.527, inclusive, which were submitted have been duly considered within the limits prescribed by the act.

§ 725.512 *Definitions.* As used in §§ 725.511 to 725.527, inclusive, and in all instructions, forms, and documents in connection therewith the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) *Committees.* (1) "Community committee" means the group of persons elected within a community to assist in the administration of the Agricultural Conservation Program in such community.

(2) "County committee" means the group of persons elected within a county to assist in the administration of the Agricultural Conservation Program in such county.

(3) "State committee" means the group of persons designated as the State committee of the Production and Marketing Administration charged with the responsibility of administering Production and Marketing Administration programs within the State.

(b) "Farm" means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(1) Any other adjacent or nearby farm land which the county committee, in accordance with instructions issued by the Assistant Administrator for Production, Production and Marketing Administration, determines is operated by the same person as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and

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labor substantially separate from that for any other lands; and

(2) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation or crops.

A farm shall be regarded as located in the county in which the principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county in which the major portion of the farm is located.

(c) "New farm" means a farm on which tobacco will be produced in 1949 for the first time since 1943.

(d) "Old farm" means a farm on which tobacco was produced in one or more of the five years 1944 through 1948.

(e) "Cropland" means that land on the farm which is included as cropland for purposes of the 1948 Agricultural Conservation Program but shall not include wood or wasteland from which no cultivated crop was harvested in any of the years 1944 through 1948.

(f) "Community cropland factor" means that percentage determined by dividing the total cropland for all old farms in the community in 1948 into the total of the 1948 tobacco acreage allotment for such old farms: *Provided*, That, if it is determined that the cropland factors for all communities in the county are substantially the same, the county committee, with the approval of the State committee, may consider the entire county as one community.

(g) "Acreage indicated by cropland" means that acreage determined by multiplying the number of acres of cropland in the farm by the community cropland factor.

(h) "Operator" means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(i) "Person" means an individual, partnership, association, corporation, estate or trust or other business enterprise or other legal entity, and whenever applicable, a State, a political subdivision of a State, or any agency thereof.

(j) "Tobacco" means Burley tobacco, type 31, or flue-cured tobacco, types 11, 12, 13, and 14, as classified in Service and Regulatory Announcement No. 118 (7 CFR, Part 30) of the Bureau of Agricultural Economics of the United States Department of Agriculture, or both as indicated by the context.

(k) "Acre of tobacco" means 43,560 square feet of land devoted to tobacco by being uniformly covered with tobacco plants notwithstanding that the width of the rows of tobacco may vary from the width of rows which are customary for the kind of tobacco involved and without regard to interplanted crops.

§ 725.513 *Extent of calculations and rule of fractions.* All acreage allotments shall be rounded to the nearest one-tenth acre. Fractions of fifty-one thousandths of an acre or more shall be rounded upward, and fractions of five-hundredths of an acre or less shall be dropped. For example, 1.051 would be 1.1 and 1.050 would be 1.0.

§ 725.514 *Instructions and forms.* The Director, Tobacco Branch, Production and Marketing Administration, shall cause to be prepared and issued such instructions and forms as may be deemed necessary for carrying out §§ 725.511 to 725.527, inclusive.

§ 725.515 *Applicability of §§ 725.511 to 725.527 inclusive.* Sections 725.511 to 725.527, inclusive, shall govern the establishment of farm acreage allotments and normal yields for tobacco in connection with farm marketing quotas for the marketing year beginning October 1, 1949, in the case of Burley tobacco, and July 1, 1949, in the case of flue-cured tobacco. The applicability of §§ 725.511 to 725.527, inclusive, is contingent upon the proclamation of a national marketing quota pursuant to section 312 of the Agricultural Adjustment Act of 1938, as amended.

ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR OLD FARMS

§ 725.516 *Determination of 1949 preliminary acreage allotments for old farms.* The preliminary acreage allotment for an old farm shall be the 1948 allotment with the following exceptions:

(a) If the acreage of tobacco harvested on the farm in each of the three years 1946–48 was less than 75 percent of the farm acreage allotment for each of such years, the preliminary allotment shall be the larger of (1) the largest acreage of tobacco harvested on the farm in any one of such three years, or (2) the average acreage of tobacco harvested on the farm in the five years 1944–48: *Provided*, That any such preliminary allotment shall not exceed the 1948 allotment for such farm or be less than 0.1 acre: *And provided further*, That the preliminary allotment may be increased to as much as the 1948 allotment if the county committee determines that failure to harvest as much as 75 percent of the allotted acreage during any one of the three years 1946–48 was due to service in the armed forces on the part of labor regularly engaged in producing tobacco on the farm prior to entry into the armed forces.

(b) If no 1948 allotment was established for the farm, the preliminary allotment shall be the average acreage of tobacco harvested on the farm in the five years 1944–48: *Provided*, That such preliminary allotment shall not be less than 0.1 acre.

(c) If the acreage of tobacco harvested on the farm in 1948 exceeded the 1948 allotment by more than 10 percent, the preliminary allotment shall be the 1948 allotment plus one-fifth of the number of acres by which the harvested acreage exceeded the 1948 allotment.

(d) The preliminary allotment shall not exceed 80 percent of the acreage of cropland on the farm.

(e) The preliminary allotments determined under paragraphs (b) and (c) of this section shall not exceed the smallest of (1) 90 percent of the acreage indicated by cropland, (2) 20 percent of the acreage of cropland on the farm, in the case of flue-cured, or (3) the acreage capacity of curing barns located on the farm and suitable for curing tobacco, which in the case of flue-cured tobacco shall be 3.5 acres per barn: *Provided*, That no preliminary allotment shall be reduced below the 1948 allotment because of these factors.

§ 725.517 *1949 old farm tobacco acreage allotment.* The preliminary allotments calculated for all old farms in the State pursuant to § 725.516 shall be adjusted uniformly so that the total of such allotments plus the acreage available for adjusting acreage allotments for old farms pursuant to § 725.518 shall not exceed the State acreage allotment: *Provided*, That in the case of Burley tobacco, any farm acreage allotment shall be increased if necessary to the smaller of (a) the 1948 allotment, or (b) 0.9 acre.

§ 725.518 *Adjustment of acreage allotments for old farms.* The farm acreage allotment for an old farm may be increased within the limits stated in paragraph (e) of § 725.516, such limits to be applied to the sum of the preliminary allotment and the increase under this section, if the community committee, with the approval of the county committee, finds that the preliminary acreage allotment is relatively small on the basis of the land, labor, and equipment available for the production of tobacco; crop-rotation practices; and other cash crops produced on the farm, or that reduction of such allotment under paragraph (a) of § 725.516 was the result of abnormal weather conditions or plant bed diseases: *Provided, however*, That any allotment may be increased above the limits stated in paragraph (e) § 725.516 if the community committee and the county committee find that the preliminary allotment is relatively smaller in relation to the land, labor, and equipment available for the production of tobacco on the farm than the preliminary allotments for other old farms in the community which are similar with respect to such factors. The acreage available for increasing allotments under this section shall not exceed one-

half of one percent of the total acreage allotted to all tobacco farms in the State for the 1948–49 marketing year.

§ 725.519 *Reduction of acreage allotment for violation of the marketing quota regulations for a prior marketing year* (a) If tobacco was marketed or was permitted to be marketed in any marketing year as having been produced on any farm which in fact was produced on a different farm, the acreage allotments established for both such farms for 1949 shall be reduced by the amount of tobacco so marketed: *Provided,* That such reduction for any such farm shall not be made if the county committee determines that no person connected with such farm caused, aided, or acquiesced in such marketing.

(b) The operator of the farm shall furnish complete and accurate proof of the disposition of all tobacco produced on the farm at such time and in such manner as will insure payment of the penalty due and in the event of refusal or failure for any reason to furnish such proof, the acreage allotment for the farm shall be reduced by that amount of tobacco with respect to which accurate proof of disposition has not been furnished: *Provided,* That if the farm operator establishes to the satisfaction of the county and State committees that failure to furnish such proof of disposition was unintentional on his part and that he could not reasonably have been expected to furnish accurate proof of disposition, reduction of the allotment will not be required if the failure to furnish proof of disposition is corrected and payment of all additional penalty due is made.

(c) Any reduction shall be made with respect to the 1949 farm acreage allotment, provided it can be made prior to the delivery of the marketing card to the farm operator. If the reduction cannot be so made effective with respect to the 1949 crop, such reduction shall be made with respect to the farm acreage allotment next established for the farm. This section shall not apply if the allotment for any prior year was reduced on account of the same violation.

(d) The amount of tobacco involved in the violation will be converted to an acreage basis by dividing such amount of tobacco by the actual yield for the farm during the year in which such tobacco was produced, or, if the actual yield cannot be determined, by the estimated actual yield determined by the county committee for the farm for such year.

§ 725.520 *Reallocation of allotments released from farms removed from agricultural production.* The allotment determined or which would have been determined for any land which is removed from agricultural production because of acquisition by a Federal or State Agency for any purpose shall be placed in a State pool and shall be available to the State committee for use in providing equitable allotments for farms owned or purchased by owners displaced because of acquisition of their farms by a Federal or State agency. Upon application to the county committee, within five years from the date of acquisition of the farm by a Federal or State agency, any owner so displaced shall be entitled to have an allotment for any other farm owned or purchased by him equal to an allotment which would have been determined for such other farm plus the allotment which would have been determined for the farm acquired by the Federal or State agency: *Provided,* That such allotment shall not exceed 20 percent of the acreage of cropland on the farm in the case of Burley tobacco, and 50 percent of the acreage of cropland on the farm in the case of flue-cured tobacco.

The provisions of this section shall not be applicable if (a) there is any marketing quota penalty due with respect to the marketing of tobacco from the farm or by the owner of the farm at the time of its acquisition by the Federal or State agency; (b) any tobacco produced on such farm has not been accounted for as required by the Secretary; or (c) the allotment next to be established for the farm acquired by the Federal or State agency would have been reduced because of false or improper identification of tobacco produced on or marketed from such farm.

§ 725.521 *Farms subdivided or combined.* (a) If land operated as a single farm in 1948 will be operated in 1949 as two or more farms, the 1949 tobacco acreage allotment determined or which otherwise would have been determined for the entire farm shall be apportioned among the tracts in the same proportion as the acreage of cropland suitable for the production of tobacco in each such tract in such year bore to the total number of acres of cropland suitable for the production of tobacco on the entire farm in such year, except that if the farm to be subdivided in 1949 resulted from a combination of two separate and distinct farms prior to a combination in 1944 or any subsequent year, the allotment may be divided among such farms in the same proportion that each contributed to the farm acreage allotment: *Provided,* That with the recommendation of the county committee and approval of the State committee, the tobacco acreage allotment determined for a tract under the provisions of this paragraph may be increased or decreased by not more than the larger of one-tenth acre or 10 percent of the 1949 acreage allotment determined for the entire farm with corresponding increases or decreases made in the acreage allotment apportioned to the other tract or tracts.

(b) If two or more farms operated separately in 1948 are combined and operated in 1949 as a single farm, the 1949 allotment shall be the sum of the 1949 allotments determined for each of the farms composing the combination or, in the case of Burley tobacco, if smaller, the allotment determined or which would have been determined for the farm as constituted in 1949.

(c) If a farm is to be subdivided in 1949 in settling an estate, the allotment may be divided among the various tracts in accordance with paragraph (a) of this section, or on such other basis as the State committee may prescribe.

§ 725.522 *Determination of normal yields.* The normal yield for any old farm shall be that yield which the county committee determines is normal for the farm taking into consideration (a) the yields obtained on the farm during the five years 1943–47; (b) the soil and other physical factors affecting the production of tobacco on the farm; and (c) the yields obtained on other farms in the locality which are similar with respect to such factors.

ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR NEW FARMS

§ 725.523 *Determination of acreage allotments for new farms.* The acreage allotment, other than an allotment made under § 725.520, for a new farm shall be that acreage which the county committee determines is fair and reasonable for the farm taking into consideration the past tobacco experience of the farm operator; the land, labor, and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided,* That the acreage allotment so determined shall not exceed in the case of Burley tobacco, 50 percent of the allotments for old Burley farms which are similar with respect to land, labor, and equipment available for the production of tobacco, crop-rotation practices, and the soil and other phyical factors affecting the production of tobacco; and in the case of flue-cured tobacco, the smaller of (a) 15 percent of the cropland in the farm including land from which a cultivated crop was harvested in 1948, or (b) 75 percent of the allotment for old flue-cured tobacco farms which are similar with respect to land, labor, and equipment available for the production of tobacco, crop-rotation practices, and the soil and other physical factors affecting the production of tobacco.

Notwithstanding any other provisions of this section a tobacco acreage allotment shall not be established for any new farm unless each of the following conditions has been met:

(1) The farm operator shall have had experience in growing the kind of tobacco for which an allotment is requested either as a share cropper, tenant, or as a farm operator during two of the past five years: *Provided, however,* That a farm operator who has been in the armed services shall be deemed to have met the requirements hereof if he has had experience in growing the kind of tobacco for which an allotment is requested during one year either within the five years immediately prior to his entry into the armed services or since his discharge from the armed services.

(2) The farm operator shall be largely dependent for his livelihood on the farm covered by the application.

(3) The farm covered by the application shall be the only farm owned or operated by the farm operator for which a Burley or flue-cured tobacco allotment is established for the 1949–50 marketing year; and

(4) The farm will not have a 1949 allotment for any kind of tobacco other than that for which application is made hereunder.

The acreage allotments established as provided in this section shall be subject

to such downward adjustment as is necessary to bring such allotments in line with the total acreage available for allotment to all new farms. One-half of one percent of the 1949 national marketing quota shall, when converted to an acreage allotment by the use of the national average yield, be available for establishing allotments for new farms. The national average yield shall be the average of the several State yields used in converting the State marketing quota into State acreage allotments.

§ 725.524 *Time for filing application.* An application for a new farm allotment shall be filed with the county committee prior to February 1, 1949, unless the farm operator was discharged from the armed services subsequent to December 31, 1948, in which case such application shall be filed within a reasonable period prior to planting tobacco on the farm.

§ 725.525 *Determination of normal yields.* The normal yield for a new farm shall be that yield per acre which the county committee determines is normal for the farm as compared with yields for other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar.

§ 725.526 *Determination of acreage allotments and normal yields for farms returned to agricultural production.* (a) Notwithstanding the foregoing provisions of §§ 725.511 to 725.525, inclusive, the acreage allotment for any farm which was acquired by a Federal or State agency for any purpose and which is returned to agricultural production in 1949, or which was returned to agricultural production in 1948 too late for the 1948 allotment to be established, shall be determined by one of the following methods:

(1) If the land is acquired by the original owner, any part of the acreage allotment which was or could have been established for such farm prior to its retirement from agricultural production which remains in the State pool (adjusted to reflect the uniform increases and decreases in comparable old farm allotments since the farm was acquired by the Federal or State agency) may be established as the 1949 allotment for such farm by transfer from the pool, and if any part of the allotment for such land was transferred by the original owner through the State pool to another farm now owned by him, such owner may elect to transfer all or any part of such allotment (as adjusted) to the farm which is returned to agricultural production.

(2) If the land is acquired by a person other than the original owner, or if all of the allotment was transferred through the State pools to another farm and the original owner does not now own the farm to which the allotment was transferred, the farm returned to agricultural production shall be regarded as a new farm.

(b) The normal yield for any such farm shall be that yield per acre which the county committee determines is reasonable for the farm as compared with yields for other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar.

§ 725.527 *Approval of determinations made under §§ 725.511 to 725.527, inclusive.* The State committee will review all allotments and yields and may correct or require correction of any determinations made under §§ 725.511 to 725.527, inclusive. All acreage allotments and yields shall be approved by the State committee and no official notice of acreage allotment shall be mailed to a grower until such allotment has been approved by the State committee.

Done at Washington, D. C. this 17th day of August 1948.

Witness my hand and the seal of the Department of Agriculture.

[SEAL] CHARLES F. BRANNAN, *Secretary of Agriculture.*

[F. R. Doc. 48-7515; Filed, Aug. 19, 1948; 8:55 a. m.]

[Tobacco 12, Part I (1949)]

PART 726—FIRE-CURED AND DARK AIR-CURED TOBACCO

MARKETING QUOTA REGULATIONS, FIRE-CURED AND DARK AIR-CURED TOBACCO 1949–50 MARKETING YEAR

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726.927 Approval of determinations made under §§ 726.911 to 726.927, inclusive.

AUTHORITY: §§ 726.911 to 726.927, inclusive, issued under 52 Stat. 38, 47, 66; 53 Stat. 1261; 54 Stat. 392; 56 Stat. 51, 57 Stat. 387; 58 Stat. 136; 60 Stat. 21; 7 U. S. C. 1301 (b), 1313, 1375.

GENERAL

§ 726.911 *Basis and purpose.* The regulations contained in §§ 726.911 to 726.927, inclusive, are issued pursuant to the Agricultural Adjustment Act of 1938, as amended, and govern the establishment of 1949 farm acreage allotments and normal yields for fire-cured and dark air-cured tobacco. The purpose of the regulations in §§ 726.911 to 726.927, inclusive, is to provide the procedure for allocating on an acreage basis the national marketing quotas for fire-cured and dark air-cured tobacco for the 1949–50 marketing year among farms and for determining normal yields. Prior to preparing the regulations in §§ 726.911 to 726.927, inclusive, public notice (13 F. R. 3126) was given in accordance with the Administrative Procedure Act (60 Stat. 237). The data, views, and recommendations pertaining to the regulations in §§ 726.911 to 726.927, inclusive, which were submitted have been duly considered within the limits prescribed by the act.

§ 726.912 *Definitions.* As used in §§ 726.911 to 726.927, inclusive, and in all instructions, forms, and documents in connection therewith the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) *Committees.* (1) "Community committee" means the group of persons elected within a community to assist in the administration of the Agricultural Conservation Program in such community.

(2) "County committee" means the group of persons elected within a county to assist in the administration of the Agricultural Conservation Program in such county.

(3) "State committee" means the group of persons designated as the State committee of the Production and Marketing Administration charged with the responsibility of administering Production and Marketing Administration programs within the State.

(b) "Farm" means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(1) Any other adjacent or nearby farm land which the county committee, in accordance with instructions issued by the Assistant Administrator for Production, Production and Marketing Administration, determines is operated by the same person as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other lands; and

(2) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops.

A farm shall be regarded as located in the county in which the principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county in which the major portion of the farm is located.

(c) "New farm" means a farm on which tobacco will be produced in 1949 for the first time since 1943.

(d) "Old farm" means a farm on which tobacco was produced in one or more of the five years 1944 through 1948.

(e) "Cropland" means that land on the farm which is included as cropland for purposes of the 1948 Agricultural Conservation Program but shall not include wood or wasteland from which no cultivated crop was harvested in any of the years 1944 through 1948.

(f) "Operator" means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(g) "Person" means an individual, partnership, association, corporation, estate or trust or other business enterprise or other legal entity, and whenever applicable, a State, a political subdivision of a State or any agency thereof.

(h) "Tobacco" means fire-cured tobacco, types 21, 22, 23, and 24, or dark-air-cured tobacco, types 35 and 36, as classified in Service and Regulatory Announcements No. 118 (7 CFR, Part 30) of the Bureau of Agricultural Economics of the United States Department of Agriculture, or both, as indicated by the context.

§ 726.913 *Extent of calculations and rule of fractions.* All acreage allotments shall be rounded to the nearest one-tenth acre. Fractions of fifty-one thousandths of an acre or more shall be rounded upward, and fractions of five-hundredths of an acre or less shall be dropped. For example, 1.051 would be 1.1 and 1.050 would be 1.0.

§ 726.914 *Instructions and forms.* The Director, Tobacco Branch, Production and Marketing Administration, shall cause to be prepared and issued such instructions and forms as may be deemed necessary for carrying out §§ 726.911 to 726.927, inclusive.

§ 726.915 *Applicability of §§ 726.911 to 726.927, inclusive.* Sections 726.911 to 726.927, inclusive, shall govern the establishment of farm acreage allotments and normal yields for tobacco in connection with farm marketing quotas for the marketing year beginning October 1, 1949. The applicability of §§ 726.911 to 726.927, inclusive, is contingent upon approval by growers in a referendum with respect to the national marketing quota be proclaimed on or after October 1, 1948.

ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR OLD FARMS

§ 726.916 *Determination of acreage allotments for old farms.* The preliminary acreage allotment for an old farm shall be the largest of: (a) The average acreage of tobacco harvested on the farm during the five years 1944–48, (b) the average acreage of tobacco harvested on the farm during the three years 1946–48, or (c) 80 percent of the acreage harvested on the farm in 1948: *Provided,* That the preliminary allotment determined for any farm under paragraph (c) of this section shall not exceed the allotment established for such farm for the 1948–49 marketing year.

The preliminary allotments for all old farms in the State shall be adjusted uniformly so that the total of the 1949 preliminary allotments for all old farms in the State shall equal the total acreage allotted to all farms in the State for the 1948–49 marketing year.

The preliminary allotment determined for any old farm shall not exceed 25 percent of the acreage of cropland in the farm.

§ 726.917 *1949 old farm acreage allotment.* The preliminary acreage allotment calculated for all old farms in the State pursuant to § 726.916 shall be adjusted uniformly so that the total of such allotments plus the acreage available for adjusting acreage allotments for old farms pursuant to § 726.918 shall not exceed the State acreage allotment.

§ 726.918 *Adjustments of acreage allotments for old farms.* The allotment for an old farm may be adjusted if the community committee, with the approval of the county committee, finds it to be smaller in relation to the past acreage of tobacco (harvested and diverted) land, labor, and equipment available for the production of tobacco; and crop-rotation practices, than the average acreage of the allotments for other old farms in the community in relation to such factors: *Provided,* That the allotment as adjusted shall not exceed the smaller of (a) acreage capacity of curing barns located on the farm which are in usable condition and available for curing tobacco, or (b) 25 percent of the cropland in the farm. The acreage available for increasing allotments under this section shall not exceed three percent of the total acreage allotted to all tobacco farms in the State for the 1948–49 marketing year.

§ 726.919 *Reduction of acreage allotment for violation of the marketing quota regulations for a prior marketing year* (a) If tobacco was marketed or was permitted to be marketed in any marketing year as having been produced on any farm which in fact was produced on a different farm, the acreage allotments established for both such farms for 1949 shall be reduced by the amount of tobacco so marketed: *Provided,* That such reduction for any such farm shall not be made if the county committee determines that no person connected with such farm caused, aided, or acquiesced in such marketing.

(b) The operator of the farm shall furnish complete and accurate proof of the disposition of all tobacco produced on the farm at such time and in such manner as will insure payment of the penalty due and in the event of refusal or failure for any reason to furnish such proof, the acreage allotment for the farm shall be reduced by that amount of tobacco with respect to which accurate proof of disposition has not been furnished: *Provided,* That if the farm operator establishes to the satisfaction of the county and State committees that failure to furnish such proof of disposition was unintentional on his part and that he could not reasonably have been expected to furnish accurate proof of disposition, reduction of the allotment will not be required if the failure to furnish proof of disposition is corrected and payment of all additional penalty due is made.

(c) Any reduction shall be made with respect to the 1949 farm acreage allotment, provided it can be made prior to the delivery of the marketing card to the farm operator. If the reduction cannot be so made effective with respect to the 1949 crop, such reduction shall be made with respect to the farm acreage allotment next established for the farm. This section shall not apply if the allotment for any prior year was reduced on account of the same violation.

(d) The amount of tobacco involved in the violation will be converted to an acreage basis by dividing such amount of tobacco by the actual yield for the farm during the year in which such tobacco was produced, or, if the actual yield cannot be determined, by the estimated actual yield determined by the county committee for the farm for such year.

§ 726.920 *Reallocation of allotments released from farms removed from agricultural production.* The allotment determined or which would have been determined for any land which is removed from agricultural production because of acquisition by a Federal or State agency for any purpose shall be placed in a State pool and shall be available to the State committee for use in providing equitable allotments for farms owned or purchased by owners displaced because of acquisition of their farms by a Federal or State agency. Upon application to the county committee, within five years from the date of acquisition of the farm by a Federal or State agency, any owner so displaced shall be entitled to have an allotment for any other farm owned or purchased by him equal to an allotment which would have been determined for such other farm plus the allotment which would have been determined for the farm acquired by the Federal or State agency: *Provided,* That such allotment shall not exceed 20 percent of the acreage of cropland on the farm.

The provisions of this section shall not be applicable if (a) there is any marketing quota penalty due with respect to the marketing of tobacco from the farm or by the owner of the farm at the time of its acquisition by the Federal or State agency: (b) any tobacco produced on such farms has not been accounted for as required by the Secretary; or (c) the allotment next to be established for the farm acquired by the Federal or State agency would have been reduced because of false or improper identification of tobacco produced on or marketed from such farm.

§ 726.921 *Farms subdivided or combined.* (a) If land operated as a single farm in 1948 will be operated in 1949 as two or more farms, the 1949 tobacco acreage allotment determined or which otherwise would have been determined for the entire farm shall be apportioned among the tracts in the same proportion as the acreage of cropland suitable for the production of tobacco in each such tract in such year bore to the total number of acres of cropland suitable for the production of tobacco on the entire farm in such year, except that if the farm to be subdivided in 1949 resulted from a combination of two separate and distinct farms prior to a combination in 1944 or any subsequent year, the allotment may be divided among such farms in the same

proportion that each contributed to the farm acreage allotment: *Provided,* That with the recommendation of the county committee, and the approval of the State committee, the tobacco acreage allotment determined for a tract under the provisions of this paragraph may be increased or decreased by not more than the larger of one-tenth acre or 10 percent of the 1949 acreage allotment determined for the entire farm with corresponding increases or decreases made in the acreage allotments apportioned to the other tract or tracts.

(b) If two or more farms operated separately in 1948 are combined and operated in 1949 as a single farm, the 1949 allotment shall be the sum of the 1949 allotments determined for each of the farms composing the combination.

(c) If a farm is to be subdivided in 1949 in settling an estate the allotment may be divided among the various tracts in accordance with paragraph (a) of this section, or on such other basis as the State committee may prescribe.

§ 726.922 *Determination of normal yields.* The normal yield for any old farm shall be that yield which the county committee determines is normal for the farm taking into consideration (a) the yields obtained on the farm during the five years 1943–47; (b) the soil and other physical factors affecting the production of tobacco on the farm; and (c) the yields obtained on other farms in the locality which are similar with respect to such factors.

ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR NEW FARMS

§ 726.923 *Determination of acreage allotments for new farms.* The acreage allotment other than an allotment made under § 726.920, for a new farm shall be that acreage which the county committee determines is fair and reasonable for the farm taking into consideration the past tobacco experience of the farm operator; the land, labor, and equipment available for the production of tobacco; crop-rotation practices; the soil and other physical factors affecting the production of tobacco: *Provided,* That the acreage allotment so determined shall not exceed 75 percent of the allotment for old farms which are similar with respect to the land, labor, and equipment available for the production of tobacco, crop-rotation practices, and the soil and other physical factors affecting the production of tobacco.

Notwithstanding any other provisions of this section, a tobacco acreage allotment shall not be established for any new farm unless each of the following conditions has been met:

(a) The farm operator shall have had experience in growing the kind of tobacco for which an allotment is requested either as a sharecropper, tenant, or as a farm operator during two of the past five years: *Provided, however* That a farm operator who has been in the armed services shall be deemed to have met the requirements hereof if he has had experience in growing the kind of tobacco for which an allotment is requested during one year either within five years immediately prior to his entry into the armed services or since his discharge from the armed services.

(b) The farm operator shall be largely dependent for his livelihood on the farm covered by the application.

(c) The farm covered by the application shall be the only farm owned or operated by the farm operator for which a fire-cured or dark air-cured tobacco allotment is established for the 1949–50 marketing years; and

(d) The farm will not have a 1949 allotment for any kind of tobacco other than that for which application is made hereunder.

The acreage allotments established as provided in this section shall be subject to such downward adjustment as is necessary to bring such allotments in line with the total acreage available for allotment to all new farms. One-half of one percent of the 1949 national marketing quota shall, when converted to an acreage allotment by the use of the national average yield, be available for establishing allotments for new farms. The national average yield shall be the average of the several State yields used in converting the State marketing quota into State acreage allotments.

§ 726.924 *Time for filing application.* An application for a new farm allotment shall be filed with the county committee prior to February 1, 1949, unless the farm operator was discharged from the armed services subsequent to December 31, 1948, in which case such application shall be filed within a reasonable period prior to planting tobacco on the farm.

§ 726.925 *Determination of normal yields.* The normal yield for a new farm shall be that yield per acre which the county committee determines is normal for the farm as compared with yields for other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar.

§ 726.926 *Determination of acreage allotments and normal yields for farms returned to agricultural production.* (a) Notwithstanding the foregoing provisions of §§ 726.911 to 726.925, inclusive, the acreage allotment for any farm which was acquired by a Federal or State agency for any purpose and which is returned to agricultural production in 1949, or which was returned to agricultural production in 1948 too late for the 1948 allotment to be established, shall be determined by one of the following methods:

(1) If the land is acquired by the original owner, any part of the acreage allotment which was or could have been established for such farm prior to its retirement from agricultural production which remains in the State pool (adjusted to reflect the uniform increases and decreases in comparable old farm allotments since the farm was acquired by the Federal or State agency) may be established as the 1949 allotment for such farm by transfer from the pool, and if any part of the allotment for such land was transferred by the original owner through the State pool to another farm now owned by him, such owner may elect to transfer all or any part of such allotment (as adjusted) to the farm which is returned to agricultural production.

(2) If the land is acquired by a person other than the original owner, or if all of the allotment was transferred through the State pools to another farm and the original owner does not now own the farm to which the allotment was transferred, the farm returned to agricultural production shall be regarded as a new farm.

(b) The normal yield for any such farm shall be that yield per acre which the county committee determines is reasonable for the farm as compared with yields for other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar.

§ 726.927 *Approval of determinations made under §§ 726.911 to 726.927, inclusive.* The State committee will review all allotments and yields and may correct or require correction of any determinations made under §§ 726.911 to 726.927, inclusive. All acreage allotments and yields shall be approved by the State committee and no official notice of acreage allotment shall be mailed to a grower until such allotment has been approved by the State committee.

Done at Washington, D. C. this 17th day of August 1948.

Witness my hand and the seal of the Department of Agriculture.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 48-7512; Filed, Aug. 19, 1948; 8:53 a. m.]

TITLE 10—ARMY

Chapter V—Military Reservations and National Cemeteries

PART 501—LIST OF EXECUTIVE ORDERS, PROCLAMATIONS AND PUBLIC LAND ORDERS AFFECTING MILITARY RESERVATIONS

TONOPAH ARMY AIRFIELD, NEVADA

CROSS REFERENCE: For order affecting the tabulation contained in § 501.1 by withdrawing designated public lands for the use of the Department of the Army in connection with the Tonopah Army Air Field, Nevada, see Public Land Order 515 in the Appendix to Chapter I of Title 43, *infra.*

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 5143]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

PURE CARBONIC, INC. ET AL.

§ 3.27 (a 7) *Combining or conspiring—To discriminate unfairly or restrictively, in general:* § 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices:* § 3.27 (g 5) *Combining or conspiring—To pool and control patent and patent rights restrictively:* § 3.27 (h) *Combining or conspiring—To restrain*

and monopolize trade: § 3.298 *Controlling, unfairly, seller suppliers:* § 3.30 (c 6) *Cutting off competitors' or others' access to customers or market—Localized price cutting below other comparable areas:* § 3.33 (a 12) *Cutting off competitors' or others' supplies or service—Organizing and controlling supply sources:* § 3.36 *Cutting prices arbitrarily, or with intent and effect of competitive loss or capitulation.* § 3.39 *Dealing on exclusive and tying basis:* § 3.45 (b) *Discriminating in price—Combination.* § 3.45 (c) *Discriminating in price—Direct discrimination — Charges and prices—Trade areas:* § 3.995 (a 7) *Using patents, rights or privileges unlawfully—Pooling and controlling patents and patent rights restrictively.* I. In connection with the purchasing, offering for sale, sale, and distribution of solid or liquid carbon dioxide in commerce, and on the part of respondents Pure Carbonic, Inc., Air Reduction Company, Inc. (owner of the stock of the former) The Liquid Carbonic Corporation, and Michigan Alkali Company (now Wyandotte Chemicals Corporation) their respective officers, etc., entering into, continuing, cooperating in, or carrying out any planned common course of action, understanding, agreement, combination, or conspiracy between and among any two or more of said respondents or between one or more of said respondents and others not parties hereto to (1) purchase the productive or distributive facilities or other assets of competitors, or control thereof; (2) enter into or carry out purchase agreements with manufacturers of solid and/or liquid carbon dioxide whereby any one or more of said respondents agrees to purchase the entire output of any of said manufacturers or a substantial portion thereof; (3) contract to purchase or purchase liquid and/or solid carbon dioxide from competing producers upon condition that said producers will not sell to competitors of any of said respondents solid carbon dioxide or liquid carbon dioxide for the purpose of manufacturing solid carbon dioxide therefrom; (4) establish, fix, or maintain prices, terms, conditions of sale, or charges for services in connection with the sale of solid or liquid carbon dioxide, or adhere to any prices, terms, conditions of sale, or service charges so fixed or maintained; (5) prevent the sale of, or refuse to sell, solid carbon dioxide to owners or lessees of converters or liquefiers for conversion into liquid carbon dioxide; (6) offer to sell or sell solid carbon dioxide to owners or lessees of converters or liquefiers at prices in excess of those offered or charged purchasers of comparable quantities for other uses; (7) allocate, reserve, or limit certain territorial areas to the exclusive use of any one or more of them in the sale and distribution of solid or liquid carbon dioxide; or, (8) own or control stock or other share capital of any corporation which owns or controls patent rights or patent applications relating to the manufacture of solid carbon dioxide, or in any other manner control such patents, patent rights, or patent applications whereby competing manufacturers or prospective manufacturers of solid carbon dioxide are hindered or prevented from continuing in or entering into the manufacture of said product; and, II, pursuant to a planned common course of action, understanding, agreement, combination, or conspiracy between and among respondents Pure Carbonic, Inc., Air Reduction Company, Inc., and The Liquid Carbonic Corporation, or between one or more of them and others, cutting prices of solid or liquid carbon dioxide to customers of competitors in certain areas below the prices charged the same class of customers in comparable areas; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U. S. C., sec. 45b) [Cease and desist order, Pure Carbonic, Inc. et al., Docket 5143, June 17, 1948]

At a regular session of the Federal Trade Commission, held at its office in the city of Washington, D. C., on the 17th day of June A. D. 1948.

In the Matter of Pure Carbonic, Inc., a Corporation, Air Reduction Company, Inc., a Corporation; Liquid Carbonic Corporation, a Corporation; and Michigan Alkali Company, a Corporation.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers thereto, stipulations of facts, and recommended decision of the trial examiner (no briefs having been filed and oral argument not having been requested) and the Commission having made its findings as to the facts and its conclusion that respondents have violated the provisions of the Federal Trade Commission Act:

I. *It is ordered,* That Pure Carbonic, Inc., a corporation; Air Reduction Company, Inc., a corporation; The Liquid Carbonic Corporation, a corporation; and Michigan Alkali Company, a corporation (now Wyandotte Chemicals Corporation) their respective officers, representatives, agents, and employees, in connection with the purchasing, offering for sale, sale, and distribution of solid or liquid carbon dioxide in commerce as "commerce" is defined by the Federal Trade Commission Act, do forthwith cease and desist from entering into, continuing, cooperating in, or carrying out any planned common course of action, understanding, agreement, combination, or conspiracy between and among any two or more of said respondents or between one or more of said respondents and others not parties hereto to do or perform, either directly or indirectly, any of the following acts or practices:

1. Purchasing the productive or distributive facilities or other assets of competitors, or control thereof.

2. Entering into or carrying out purchase agreements with manufacturers of solid and/or liquid carbon dioxide whereby any one or more of said respondents agrees to purchase the entire output of any of said manufacturers or a substantial portion thereof.

3. Contracting to purchase or purchasing liquid and/or solid carbon dioxide from competing producers upon condition that said producers will not sell to competitors of any of said respondents solid carbon dioxide or liquid carbon dioxide for the purpose of manufacturing solid carbon dioxide therefrom.

4. Establishing, fixing, or maintaining prices, terms, conditions of sale, or charges for services in connection with the sale of solid or liquid carbon dioxide, or adhering to any prices, terms, conditions of sale, or service charges so fixed or maintained.

5. Preventing the sale of, or refusing to sell, solid carbon dioxide to owners or lessees of converters or liquefiers for conversion into liquid carbon dioxide.

6. Offering to sell or selling solid carbon dioxide to owners or lessees of converters or liquefiers at prices in excess of those offered or charged purchasers of comparable quantities for other uses.

7. Allocating, reserving, or limiting certain territorial areas to the exclusive use of any one or more of them in the sale and distribution of solid or liquid carbon dioxide.

8. Owning or controlling stock or other share capital of any corporation which owns or controls patent rights or patent applications relating to the manufacture of solid carbon dioxide, or in any other manner controlling such patents, patent rights, or patent applications whereby competing manufacturers or prospective manufacturers of solid carbon dioxide are hindered or prevented from continuing in or entering into the manufacture of said product.

II. *It is further ordered,* That the respondents Pure Carbonic, Inc., Air Reduction Company, Inc., and The Liquid Carbonic Corporation, pursuant to a planned common course of action, understanding, agreement, combination, or conspiracy between and among them, or between one or more of them and others, cease and desist from: Cutting prices of solid or liquid carbon dioxide to customers of competitors in certain areas below the prices charged the same class of customers in comparable areas.

III. *It is further ordered,* For the reasons appearing in the findings as to the facts and conclusion in this proceeding, that the charges in Count II of the complaint herein be and the same are hereby withdrawn without prejudice to the right of the Commission to institute a further proceeding against each of these respondents at any time with respect to alleged violations of the Robinson-Patman Act.

IV. *It is further ordered,* That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with it.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 48-7480; Filed, Aug. 10, 1948; 8:48 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 52004]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

IMPORTED POTATOES

1. Section 10.57, Customs Regulations of 1943 (19 CFR, Cum. Supp., 10.57) is amended to read as follows:

§ 10.57 *Certified seed potatoes.* Claim for classification as seed potatoes under paragraph 771, Tariff Act of 1930, as modified pursuant to the General Agreement (T. D. 51802) shall be made at the time of entry. Such classification shall be allowed only if the articles are white or Irish potatoes which are imported in containers and if, at the time of importation, there is firmly affixed to each container an official tag supplied by the government of the country in which the potatoes were grown, or an agency of such government. The tag shall bear a certificate to the effect that the potatoes in the container were grown, and have been approved, especially for use as seed. The tag shall also bear a number or other symbol identifying the potatoes in the container with an inspection record of the foreign government or its agency on the basis of which the certificate was issued. (R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624)

2. Note 54, appended to § 10.57, is deleted.

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

Approved: August 16, 1948.

JOHN S. GRAHAM,
Acting Secretary of the Treasury.

[F. R. Doc. 48-7505; Filed, Aug. 19, 1948; 8:51 a. m.]

TITLE 24—HOUSING CREDIT

Chapter VI—Public Housing Administration

PART 611—LOW-RENT HOUSING AND SLUM CLEARANCE PROGRAM: POLICY

REPORTING CHANGES IN INCOME OR FAMILY COMPOSITION

Part 611 (11 F. R. 177A-910) is hereby amended, to be effective no later than October 1, 1948, by adding § 611.10 thereto, as follows:

§ 611.10 *Reporting changes in income or family composition in low-rent housing projects.* (a) Tenants of all public low-rent projects shall be required to report all changes in family income and composition as they occur. These reports shall be processed by management upon receipt and appropriate rental adjustments made. Increases in rent resulting from an increase in family income or a change in family composition shall be put into effect as of the first of the month following that in which the change of status actually occurred. A decrease in rent shall be made when it is learned either through reexamination or from a report submitted by the tenant that the family's circumstances have changed sufficiently to warrant a lower rent. The effective date of such decrease shall be determined by the local authority. Rent decreases shall not be made effective until the basis for the redetermination of rent has been verified.

(b) Eligibility for admission shall be based on the net income (aggregate income minus allowable deductions) it is anticipated the family will receive during the 12 months immediately following the expected date of admission. Eligibility for continued occupancy shall be determined and verified each time the status of the family is reviewed (reexamination and interim review) and shall be based on the net income it is anticipated the family will receive during the 12 months immediately following the review.

(c) The rent to be charged following admission, regularly scheduled reexamination or interim review shall be based on the net income it is anticipated the family will receive during the period of time established by the local authority for this purpose and shall be in accordance with the approved schedule of rents and income limits. (50 Stat. 888; 42 U. S. C. 1401)

Approved: August 13, 1948.

[SEAL] JOHN TAYLOR EGAN,
Commissioner.

[F. R. Doc. 48-7507; Filed, Aug. 19, 1948; 8:52 a. m.]

TITLE 36—PARKS AND FORESTS

Chapter II—Forest Service, Department of Agriculture

PART 201—NATIONAL FORESTS

TONGASS NATIONAL FOREST, ALASKA

CROSS REFERENCE: For order affecting the tabulation contained in § 201.1 by excluding designated lands from Tongass National Forest, Alaska, see Public Land Order 514 in the Appendix to Chapter I of Title 43, *infra.*

TITLE 42—PUBLIC HEALTH

Chapter III—St. Elizabeths Hospital, Federal Security Agency

PART 304—VOLUNTARY PATIENTS

Sec.
304.1 Admission; application, examination.
304.2 Admission; determination of admissibility, notice, certificate of reimbursement.
304.3 Release and unauthorized absence; temporary release, permanent release, unauthorized absence.
304.4 Discharge.
304.5 Change of patients' status; reports.

AUTHORITY: §§ 304.1 to 304.5, inclusive, issued under sec. 4, Pub. Law 737, 80th Cong., 2d, sess., 62 Stat. 574.

§ 304.1 *Admission; application, examination.* (a) Any person making application, or on whose behalf application is made, for admission to the Hospital as a voluntary patient shall be examined by a Clinical Director or any other physician of the Hospital specially designated by the Superintendent to perform the examination. All applications shall be in writing and on a form prescribed by the Superintendent.

(b) The examining physician shall attach to the application a statement of his opinion of the need of the person examined for mental care and treatment in a mental hospital. When the application is made by a person on his own behalf, the examining physician shall also state whether in his judgment the applicant is mentally competent to make application for admission.

§ 304.2 *Admission; determination of admissibility, notice, certificate of reimbursement.* (a) Upon receipt of the application, the Superintendent shall determine whether the person involved may be admitted as a voluntary patient and promptly notify the applicant what disposition has been made of the application. In making his determination the Superintendent may require such further examinations to be made as he may consider necessary.

(b) No person, although otherwise admissible, shall be admitted as a voluntary patient unless the Board of Public Welfare of the District of Columbia shall have certified to the Superintendent that it will reimburse the Hospital the cost of caring for the person involved.

§ 304.3 *Release and unauthorized absence; temporary release, permanent release, unauthorized absence.* (a) A voluntary patient may be permitted to leave the Hospital temporarily for a period fixed by the Superintendent but not exceeding two weeks.

(b) Requests for release of a voluntary patient, whether made by the patient or by another person on his behalf, shall be in writing and on a form prescribed by the Superintendent. Requests for release of a voluntary patient may be withdrawn in writing and on a form prescribed by the Superintendent. Receipt of notice of withdrawal shall nullify any previously received request for release.

(c) Physicians and nurses of the Hospital shall assist voluntary patients in the preparation of requests for release or withdrawals of such requests and shall transmit them to the Superintendent without delay.

(d) In the discretion of the Superintendent, a voluntary patient who leaves the Hospital without permission or who, having been permitted to leave temporarily, fails to return within the time required may (1) be readmitted or (2) be refused readmission and given an opportunity to reapply for admission as an original applicant.

§ 304.4 *Discharge.* A voluntary patient who is found by the Superintendent no longer to be in need of treatment or care in a mental hospital, or with respect to whom the certificate of the Board of Public Welfare has been revoked, shall be discharged forthwith. The Superintendent may also discharge any voluntary patient who by his persistent failure or refusal to comply with the rules or regulations of the Hospital seriously impedes his own care or treatment or that of other patients.

§ 304.5 *Change of patients' status; reports.* The Board of Public Welfare of the District of Columbia shall be notified promptly of the unauthorized absence of a voluntary patient or of any change in his status as a voluntary patient. In the case of a patient admitted upon the written application of another person, the latter shall also be given notice of the patient's unauthorized absence or change of status.

Effective date. The foregoing regulations shall become effective on August 21, 1948.

[SEAL] SAMUEL A. SILK,
Acting Superintendent.

Approved: August 17, 1948.

J. DONALD KINGSLEY,
Acting Federal Security Administrator

[F. R. Doc. 48-7506; Filed, Aug. 19, 1948; 8:52 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

PART 162—LIST OF ORDERS CREATING AND MODIFYING GRAZING DISTRICTS OR AFFECTING PUBLIC LANDS IN SUCH DISTRICTS

CALIFORNIA GRAZING DISTRICT NO. 2; NEW MEXICO GRAZING DISTRICT NO. 3

CROSS REFERENCE: For order which shall take precedence over, but does not modify the order establishing California Grazing District No. 2, see Public Land Order 513 in the Appendix to this chapter, *infra.* For order which shall take precedence over but does not modify the order establishing New Mexico Grazing District No. 3, see F. R. Doc. 48-7474, establishing Air Navigation Site Withdrawal No. 253, under Bureau of Land Management in the Notices section, *infra.* These orders affect the tabulation contained in § 162.1.

Appendix—Public Land Orders

[Public Land Order 513]

CALIFORNIA

WITHDRAWING PUBLIC LAND FOR A FIRE LOOKOUT STATION

By virtue of the authority vested in the President by the act of June 25, 1910 c. 421, 36 Stat. 847, as amended by the act of August 24, 1912, c. 369, 37 Stat. 497 (U. S. C., Title 43, secs. 141-143) and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights and the provisions of existing withdrawals, the following-described public land in California is hereby temporarily withdrawn from settlement, location, sale, or entry, and reserved and set apart under the jurisdiction of the Department of the Interior for use by the State of California as a fire-control station:

MOUNT DIABLO MERIDIAN

T. 34 N., R. 11 E.,
Sec. 9, E½NW¼NW¼ and W½NE¼NW¼.

The area described contains 40 acres.

This order shall take precedence over, but shall not modify the order of the Secretary of the Interior of April 8, 1935, establishing California Grazing District No. 2, so far as it affects the above-described land.

AUGUST 12, 1948.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior

[F. R. Doc. 48-7472; Filed, Aug. 19, 1948; 8:47 a. m.]

[Public Land Order 514]

ALASKA

EXCLUDING CERTAIN TRACTS OF LAND FROM TONGASS NATIONAL FOREST AND RESTORING THEM FOR PURCHASE AS HOMESITES

By virtue of the authority vested in the President by the act of June 4, 1897, 30 Stat. 11, 36 (U. S. C. Title 16, sec. 473) and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

The following-described tracts of public land in Alaska, occupied as homesites, and identified by surveys of which plats and field notes are on file in the Bureau of Land Management, Washington, D. C., are hereby excluded from the national forest, as hereinafter indicated, and restored, subject to valid existing rights, for purchase as homesites under section 10 of the act of May 14, 1898, as amended by the act of May 26, 1934, 48 Stat. 809 (U. S. C. Title 48, sec. 461)

TONGASS NATIONAL FOREST

U. S. Survey No. 2392, lot L, 4.83 acres; latitude 58°23'30" N., longitude 134°38' W. (Homesite No. 419, Auke Lake Group)

U. S. Survey No. 2392, lot F, 4.66 acres; latitude 58°23'30" N., longitude 134°38' W. (Homesite No. 432, Auke Lake Group)

U. S. Survey No. 2553, lot E, 1.97 acres; latitude 50°28'09" N., longitude 131°46'44" W. (Homesite No. 578, Clover Pass Group)

U. S. Survey No. 2604, lot 11, 3.16 acres; latitude 55°25'42" N., longitude 131°50' W. (Homesite No. 632, Pt. Higgins Group)

U. S. Survey No. 2611, 2.50 acres; latitude 55°28'36" N., longitude 133°07'50" W. (Homesite No. 591, East Craig Group).

AUGUST 13, 1948.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior

[F. R. Doc. 48-7475; Filed, Aug. 19, 1948; 8:47 a. m.]

[Public Land Order 515]

NEVADA

WITHDRAWING PUBLIC LANDS FOR USE OF THE DEPARTMENT OF THE ARMY

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights, the following-described public land in Nevada is hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and mineral leasing laws, and reserved for the use of the Department of the Army in connection with the Tonopah Army Air Field:

MOUNT DIABLO MERIDIAN

T. 2 N., R. 42 E., those portions of the W½NW¼ sec. 1 and E½NE¼ sec. 2, more particularly described as follows:

Beginning at corner No. 2 of the California Lode claim, Mineral Survey No. 4729, being also identical with corner No. 5 of the Roosevelt Lode claim, Mineral Survey No. 4262; and running thence South 2°03' West, along the line between corners No. 2 and No. 3 of the said California claim 1047.8 feet, more or less, to corner No. 3 of said California claim; thence North 69°01' West, along the line between corners No. 3 and No. 4 of the said California claim 64.45 feet; thence South 17°50' East, 88.14 feet; thence South 62°50' East, 521.00 feet; thence approximately North 10°10' East, 951.9 feet, more or less, to a point in the line between corners No. 4 and No. 5 of the Banner Claim, Mineral Survey No. 4262, distant thereon 57.78 feet from corner No. 5 of said Banner claim; thence South 72°39' West, along said line of Banner claim 57.78 feet to corner No. 5 of said Banner claim; thence North 2°31' East, along the line between corners No. 5 and No. 1 of the said Banner claim, 72.42 feet; thence North 82°43' West, 339.04 feet; thence North 18°43' West, 255.00 feet; thence approximately North 23°13' East, 119.9 feet, more or less, to a point on the line between corners No. 4 and No. 5 of the said Roosevelt claim, distant thereon 144.07 feet from corner No. 5 of said Roosevelt claim; thence South 73°25' West, along said line of said Roosevelt claim, 144.07 feet to the point of beginning, excepting therefrom a certain lot as set forth in Deed recorded in Book 28 of Deeds, Page 587, Nye County Records, Nye County, Nevada, more particularly described as follows:

Beginning at a point from which corner No. 2 of the California Lode, Mineral Survey No. 4729, bears North 10°00' West, 109 feet; and running thence South 19°10' East, 27 feet; thence North 70°50' East, 24 feet; thence North 19°10' West, 27 feet; thence South 70°50' West, 24 feet to point of beginning, and containing 0.015 acre.

The tract as described contains 11.847 acres.

It is intended that the land described herein shall be returned to the administration of the Department of the Interior when it is no longer needed for the purpose for which it is reserved.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior

AUGUST 13, 1948.

[F. R. Doc. 48-7476; Filed, Aug. 19, 1948; 8:47 a. m.]

TITLE 46—SHIPPING

Chapter I—Coast Guard: Inspection and Navigation

Subchapter F—Marine Engineering

[CGFR 48-23]

PART 55—PIPING SYSTEMS

SUBPART 55.07—DETAIL REQUIREMENTS

By virtue of the authority vested in me as Commandant, United States Coast Guard, by R. S. 4405, 4417a, 4418, 4426, 4427, 4429, 4430, 4431, 4432, 4433, 4434,

49 Stat. 1544, 54 Stat. 346, and sec. 5 (e) 55 Stat. 244, as amended; 46 U. S. C. 367, 375, 391a, 392, 404, 405, 407–412, 1333, 50 U. S. C. 1275; and section 101 of Reorganization Plan No. 3 of 1946 (11 F. R. 7875) the following omissions shall be inserted in Coast Guard Document CGFR 48–23, Federal Register Document 48–5789, filed June 25, 1948, and published in the FEDERAL REGISTER dated June 26, 1948, 13 F. R. 3521 et seq..

The revised descriptions of Figures 55.07–15 (f3) and 55.07–15 (f4) were inadvertently omitted when publishing the revised requirements for Class I and Class II piping, and in order that the descriptions of figures will be in agreement with the other regulations published, § 55.07–15 is amended by changing the descriptions for Figures 55.07–15 (f3) and 55.07–15 (f4) to read as follows:

§ 55.07–15 *Joints and flange connections.* * * *

(f) * * *

FIGURE 55.07–15 (f3) Slip-on flanges may be used for Class I piping of nominal pipe size not exceeding 2 inches and for Class II piping without diameter limitation. The face of the flange shall extend beyond the end of the pipe at least equal to the thickness of the pipe wall.

FIGURE 55.07–15 (f4) Socket welding flanges may be used for Class I piping of nominal pipe size not exceeding 2 inches. For Class II piping, socket welding flanges may be used without diameter limitation.

Dated: August 12, 1948.

[SEAL] J. F. FARLEY,
Admiral, U. S. Coast Guard.

[F. R. Doc. 48–7504; Filed, Aug. 19, 1948; 8:51 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

Subchapter B—Carriers by Motor Vehicle

[Ex Parte No. MC–7]

PART 170—COMMERCIAL ZONE

WASHINGTON, D. C., COMMERCIAL ZONES

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 6th day of August A. D. 1948.

Section 203 (b) (8) of the Interstate Commerce Act (49 U. S. C. 303 (b) (8)) and the transportation of passengers and property by motor vehicle, in interstate or foreign commerce, wholly within a municipality, or between contiguous municipalities, or within a zone adjacent to and commercially a part of any such municipality being under consideration, and good cause appearing therefor: *It is ordered,* That:

Section 170.4, *Washington, D. C.,* of the order entered in this proceeding on October 26, 1937 (49 CFR, 170.4) be, and it is hereby, vacated and set aside; and for the purpose of administration and enforcement of Part II of the Interstate Commerce Act, the zone adjacent to and commercially a part of Washington, D. C., in which transportation by motor vehicle in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point beyond the zone, will be partially exempt under section 203 (b) (8) of the act (49 U. S. C. 303 (b) (8)) from regulation, is hereby determined to include, and to be comprised of the District of Columbia and all that area within a line as follows:

Beginning at the intersection of MacArthur Boulevard, and Falls Road (Maryland Highway 189) and extending along Falls Road for a distance of about 4.7 miles to its junction with Tuckerman Lane (also called Winters Road), thence easterly over Tuckerman Lane to its junction with Old Georgetown Road (Maryland Highway 187) thence northerly along Old Georgetown Road to its junction with Rockville Turnpike (U. S. Highway 240), thence southerly along Rockville Turnpike, about 0.1 mile, to its junction with Montrose Road, thence easterly along Montrose Road for a distance of about 1.2 miles to its junction with an unnumbered highway, thence northeasterly along such unnumbered highway, about 0.7 mile, to its junction with Viers Mill Road (Maryland Highway 586), thence northwesterly along Viers Mill Road, about 1 mile, to its junction with an unnumbered highway, thence northeasterly along such unnumbered highway to its junction with Brookeville Road (Maryland Highway 97), thence southeasterly along Brookeville Road to its junction with Maryland Highway 183, thence northeasterly along Maryland Highway 183 to Colesville, Md., thence southeasterly along Beltsville Road to its junction with Montgomery Road, thence northeasterly along Montgomery Road, approximately 0.2 mile, to its junction with an unnumbered highway extending northeasterly to the north of Ammendale Normal Institute, thence along such unnumbered highway for a distance of about 2.2 miles to its junction somewhat north of Virginia Manor, Md., with an unnumbered highway extending easterly through Muirkirk, Md., thence along such unnumbered highway through Muirkirk to its junction, approximately 1.8 miles east of the Baltimore and Ohio Railroad, with an unnumbered highway, thence southwesterly along such unnumbered highway for a distance of about 0.5 mile to its junction with an unnumbered highway, thence southeasterly along such unnumbered highway through Springfield and Hillmeade, Md., to its junction with Defence Highway (U. S. Highway 50), thence southwesterly along Defence Highway approximately 0.8 mile to its junction with an unnumbered highway, thence southerly over such unnumbered highway to its junction with Central Avenue (Maryland Highway 214), thence westerly over Central Avenue about 0.5 mile to its crossing of Western Branch, thence southerly down the course of Western Branch to Maryland Highway 202, thence westerly approximately 0.3 mile along Maryland Highway 202 to its junction with an unnumbered highway, thence southwesterly along such unnumbered highway to its junction with Maryland Highway 221, thence southeasterly along Maryland Highway 221 to its junction with Maryland Highway 4, thence westerly along Maryland Highway 4 to its junction with Maryland Highway 337, thence southwesterly along Maryland Highway 337 to its junction with Maryland Highway 224, thence southerly along Maryland Highway 224 to a point opposite the mouth of Broad Creek, thence due west across the Potomac River to the west bank thereof, thence southerly along the west bank of the Potomac River to Dogue Creek, thence northwesterly up the course of Dogue Creek to U. S. Highway 1, thence southwesterly along U. S. Highway 1 to its junction with Back Lick Road at Accotink, Va., thence northerly along Back Lick Road through Newington, Springfield, and Springfield Station, Va., to Annandale, Va., thence northerly along Gallows Road through Pleasant Ridge and Merrifield, Va., to its junction with Virginia Highway 7, thence northwesterly along Virginia Highway 7 to Tysons Crossroads, Va., thence northeasterly along Virginia Highway 123 to Lewinsville, Va., thence northwesterly along an unnumbered highway to Jones Corners, Va., thence northeasterly on Swinks Mill Road to Swinks Mill, Va., thence along the course of Scott Run to the Potomac River, thence due north across the river to MacArthur Boulevard, thence northwesterly along MacArthur Boulevard, to its junction with Maryland Highway 189, the point of beginning.

(49 Stat. 546; 49 U. S. C. 303 (b) (8))

It is further ordered, That this order shall become effective September 30, 1948, and shall continue in effect until the further order of the Commission.

By the Commission, Division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 48–7483; Filed, Aug. 19, 1948; 8:48 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[17 CFR, Part 985]

[Docket No. AO–193]

HANDLING OF EMPEROR GRAPES GROWN IN CALIFORNIA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders, as amended (7 CFR, Supps., 900.1 et seq.) notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed marketing agreement and a proposed marketing order regulating the handling of Emperor grapes grown in the State of California, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq., 61 Stat. 203, 707) Interested parties may file exceptions to this recommended decision with the Hearing Clerk, United States Department

of Agriculture, Room 1846, South Building, Washington 25, D. C., not later than the close of business on the tenth day after publication of this recommended decision in the FEDERAL REGISTER. Any such exceptions should be filed in quadruplicate.

Preliminary statement. The public hearing, on the record of which the proposed marketing agreement and marketing order (hereinafter called the "order") was formulated, was held at Exeter, California, on May 10 to 12, 1948, inclusive, pursuant to notice thereof which was published in the FEDERAL REGISTER (13 F R. 2224) on April 24, 1948. Said notice contained a draft of a proposed marketing agreement and order which had been presented to the Secretary of Agriculture (hereinafter called the "Secretary") by a committee of growers and handlers of Emperor grapes grown in the State of California with a petition for hearings thereon. The objective of such proposal was to bring to the Emperor grape industry of California the benefits of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C., 601 et seq., 61 Stat. 208, 707) (hereinafter called the "act"), and to seek to accomplish the declared purposes of that legislation.

The material issues presented on the record of the hearing are as follows:

(1) The existence of the right to exercise Federal jurisdiction in this instance.

(2) The need for the proposed regulatory program to accomplish the declared objectives of the act.

(3) The provisions which should be incorporated in any marketing agreement and order adopted, such as:

(a) The defining of such terms as "Secretary," "act," "person," "grapes," "area," "grower or producer," "handler" or "shipper," "handle" or "ship," "size," "standard package," "fiscal period" or "marketing season," "cold storage," "district," "Tulare District," "Fresno District," and "Kern District";

(b) The establishment and maintenance of an administrative agency (to be known as the "Industry Committee") to administer the program operations, the granting of powers and duties to such agency, and providing for the manner of conducting its business:

(c) The establishment and maintenance of a committee (to be known as the "Shippers' Advisory Council") to serve in an advisory capacity to the administrative agency referred to in paragraph (b)

(d) Providing for operational expenses and the assessments to be imposed in that connection;

(e) Providing for the establishment of a marketing policy each season;

(f) Providing for regulation by grades and the establishment of minimum standards of quality and maturity, the granting of exemptions in connection with grade regulations, inspection and certification, and the modification, suspension, or termination of any grade regulations, or minimum standards of quality and maturity;

(g) Providing for reports which handlers should file, and the verification thereof by the Industry Committee;

(h) Providing for the exemption from the regulatory provisions of the order of shipments of grapes intended for consumption in charitable institutions, or for relief purposes, and individual shipments by parcel post or railway express of 10 standard packages or less of grapes; and

(i) Providing for certain additional provisions, as set forth in §§ 985.9 to 985.20, inclusive, as published in the FEDERAL REGISTER (13 F. R. 2224) on April 24, 1948, which are common to marketing agreements and marketing orders, namely, provisions relating to compliance, right of the Secretary, effective time, suspension, and termination, effect of termination or amendment, duration of immunities, agents, derogation, personal liability, separability, and amendments, and the additional provisions which are common to marketing agreements alone, such as counterparts, additional parties, and order with marketing agreement.

Findings and conclusions. The findings and conclusions on the aforementioned material issues, all of which are based on the evidence adduced at the hearing and the record thereof, are as follows:

(1) As will appear in the discussion of the definition of "handle" under (3) (a) below, it is intended to regulate under the proposed program, only those Emperor grapes which actually move in interstate or foreign commerce. During the period from 1935 to 1947, inclusive, interstate shipments of Emperor grapes produced in California ranged from a low of 3291 cars (or 45,990 tons) in 1935 to a high of 9300 cars (or 143,220 tons) in 1947. In addition, during the same period, carload (on the basis of 30,800 pounds each) shipments of Emperor grapes produced in California estimated to have been exported ranged from a low of 437 cars in 1935 to a high of 1174 cars in 1947.

(2) During the recent world war period, there was a tendency in the Emperor grape industry, because of the heavy demand for grapes and the favorable price structure, to ship grapes of inferior quality and unattractive appearance. The practice has continued to the present time, and has resulted in an undue lowering of prices, and criticism on the part of the consuming public because of the lack of quality. The price situation is aggravated by the increasing supply of Emperor grapes. The production of Emperor grapes in California in 1947 was more than twice the average annual production for the five-year period 1936 to 1941, due, partly, to the yield from new bearing acreage and, partly, to the increase in the average yield per acre from 3.5 tons to 6.2 tons. Since 1942, new plantings have averaged 1,247 acres per year. By 1945 production costs had increased approximately 240 percent of those in the 1940 season, and there have been further increases in such costs since 1945. The limitation of the shipment of inferior Emperor grapes will tend to improve the quality of the shipments to the receiving markets and to raise the average prices and returns to growers. In many instances in the past shipments of inferior quality Emperor grapes failed to return to the producers the costs of harvesting and marketing, and the shipment of such grapes was associated with greater risk from the standpoint of grower returns than were the shipments of the better grades. The limitation of shipments of inferior Emperor grapes and the securing of the attendant benefits can best be accomplished by a program of regulation such as is proposed. The 1947 seasonal average price was less than half of parity, thus making the adoption of the proposed program desirable.

(3) (a) Certain terms, applying to specific individuals, agencies, legislation, concepts, or things, are used throughout the proposed order. Those terms should be defined to establish their meaning and to avoid the necessity of defining them whenever they are used. These definitions are necessary and incidental to the operation of the proposed order and for the effectuation of the declared purposes of the act.

Definitions of "Secretary," "act," and "person," as contained in the proposal set forth in the notice of hearing, are similar to or identical with the definitions of those terms which are set forth in other orders of this nature. The definition of "Secretary" should include not only the Secretary of Agriculture of the United States, the official charged by law with general supervision over programs of this nature, but also, in order to recognize the fact that it is physically impossible for him to perform personally all of the functions and duties which are imposed upon him by law, any other officer or employee of the United States Department of Agriculture who is or who may be authorized to perform the duties of the Secretary. The definition of "act" merely gives the correct legal citation for the statute pursuant to which regulatory programs of this nature are operated. The definition of "person" follows the definition of that term as set forth in the act.

"Grapes" should be defined to mean and include all Emperor grapes grown in the area. Evidence presented at the hearing was to the general effect that such grapes have both a flavor and taste which serves readily to distinguish them from other varieties of grapes. Also, that, while such grapes generally have the more or less characteristic color of light brilliant red, there are some which have a relatively light color. The definitions of "grapes" and "area," discussed in the following paragraph, are necessary to identify the commodity, and the portion thereof, which is to be regulated under this proposed program.

"Area" should be defined to mean and include the State of California. While Emperor grapes are grown primarily in Tulare, Fresno, and Kern Counties, they are also grown commercially, to a limited extent, in the following additional Counties: Madera, Merced, Stanislaus, San Joaquin, Contra Costa, Sacramento, Placer, San Luis Obispo, Santa Clara, Sonoma, Glenn, Amador, Los Angeles, Riverside, and San Bernardino. In addition, it is the general custom of the trade to store a large portion of the Em-

peror grape crop in cold storage warehouses within the State of California for periods ranging up to several months. Oftentimes it is not known definitely at the time such grapes are so placed in cold storage whether they will be marketed within or without that State. Under these circumstances, it will be desirable, from the standpoint of reasonably effective regulations, for the entire State of California to be included in the area. It is concluded, therefore, that the State of California, considered as a unit, constitutes the smallest practicable area consistently with the carrying out of the declared policy of the act and for the purposes of the proposed order.

The term "grower," which is synonymous with "producer," should be defined as "any person engaged in the production of grapes for market, who, as the owner of the vineyard, or as a tenant thereon, has a financial interest in the crop from such vineyard," and, "as used in § 985.5, 'grower' shall also mean the purchaser of a crop of grapes on the vines." This term determines who shall be entitled to vote for nominees for members and alternate members of the administrative agency (§ 985.2) With respect to voting, such privilege should be confined to persons who are financially interested in the vineyards as owners or tenants. There would be excluded from participation in the voting any person whose financial interest is not such as to constitute him an owner or tenant, as, for instance, a person whose financial interest is that of the holder of a mortgage on a vineyard. On the other hand, insofar as any regulation under § 985.5 is concerned, there should also be considered as a "grower" any person who has purchased grapes on the vine. Such a person is confronted with the problem of marketing his grapes to the same extent as the owner of a vineyard or a tenant thereon.

The term "handler," which is synonymous with "shipper," should be defined to mean "any person (except a common or contract carrier of, or an operator of a cold storage warehouse for grapes owned by another person) who, as owner, agent, or otherwise, handles grapes, or causes grapes to be handled by rail, truck, boat, or any other means whatsoever." Such term identifies the type of person on whom the burden of the proposed regulation will fall. There should be included under this definition all persons who ship, or cause to be shipped, grapes outside of the State of California, except persons acting in that connection solely for hire. Such exceptions should be limited to persons engaged in the shipping operations, including but not limited to common and contract carriers and operators of cold storage warehouses for others, who perform their respective functions on the basis of service rates or charges and who do not have any proprietary interest in the grapes being moved. Growers who so ship grapes of their own production should also be considered handlers, not only because they have a proprietary interest in such grapes, but also because they are performing the marketing functions of a handler in making such shipments.

It was proposed in the notice of hearing that the term "handle" be synonymous with "ship" and that such term should be defined to mean "to sell, load in a conveyance for transportation, offer for transportation, transport, deliver to cold storage, or in any other way to place grapes in the current of commerce between the State of California and any place outside thereof, or so as directly to burden, obstruct, or affect such commerce." However, it was developed at the hearing that it is intended to regulate under the proposed program only those Emperor grapes which actually move in the channels of interstate or foreign commerce. The proposed definition of "handle" should cover the usual and normal actions of handling, and the exceptions should be the same as those set forth in the preceding paragraph with respect to the definition of "handler."

It was proposed in the notice of hearing that there be included, in the list of definitions, a definition of "size" and that such term be defined to mean "as used with reference to grapes, the weight of a bunch of grapes." However, it was developed at the hearing that such a definition would serve no useful purpose, since it is not proposed to establish any size restrictions with respect to the handling of grapes other than those which may result from grade restrictions. It is concluded, therefore, that such definition should not be adopted.

The term "standard package" should be defined to mean "the size(s) and type(s) of package designated by the Industry Committee and approved by the Secretary." The purpose of this definition will be wholly for the purpose of providing standards of measurement for establishing quantities of grapes for assessment and reporting purposes, and in connection with shipments exempted under § 985.7. This would not be used in any way to require the industry to ship, or otherwise handle, grapes in containers of any specified size. As it is the practice of the industry to pack grapes in different types of containers, some with extraneous material, the committee should be authorized to prescribe, with the approval of the Secretary, two or more standard packages.

The term "fiscal period," which is synonymous with "marketing season," should be defined as the twelve-month period beginning on the first day of June of each year and ending on the last day of May of the following year, except that the initial fiscal period shall begin on the effective date of this order and shall end on the last day of May of the following year. The marketing season for Emperor grapes extends generally over a period of seven months, ending in late April or early May. The fixing of the end of the fiscal period as of May 31st should insure that all Emperor grapes produced during the season have been handled by such time. The fixing of the beginning of the fiscal period as of June 1 should provide sufficient time prior to the beginning of the harvesting season to enable necessary preliminary steps to be taken for the regulation of the new crop.

The term "cold storage" should be defined to mean "the storage of grapes under refrigeration in a storage warehouse in the State of California." As has been indicated heretofore, a considerable portion of each year's crop of grapes is stored, for periods ranging up to several months, in cold storage warehouses located within the State of California, and the regulatory provisions apply to such a situation.

To provide equitable representation on the committee, the area should be apportioned into three districts, to be known, respectively, as the "Tulare District," the "Fresno District," and the "Kern District," such being the names of the principal grape producing counties in the respective districts. "Tulare District" should be defined, or described, to mean "that portion of Tulare County, California, which is bounded and described as follows: Beginning at the northwest corner of Township 17 South, Range 23 E. M. D., being the intersection of the county line between Tulare County and Kings County, California with the Fourth Standard Parallel, South; running thence south along said county line to the southwest corner of Section 30, Township 23 South, Range 23 E. M. D., thence easterly following the northerly line of the south tier of sections in Township 23 South, Ranges 24 to 36, both inclusive, E. M. D., part of the distance being along the so-called Earlimart-Ducor Highway, in Range 27 E. M. D., thence south along the west line of Section 30, Township 23 South, Range 37 E. M. D. to the southwest corner thereof; thence easterly along the south lines of Sections 30, 29, 28, and 27 Township 23 South, Range 37 E. M. D. to the county line between Tulare County and Inyo County, California; thence northerly along such county line to the Fourth Standard Parallel South; and thence westerly along the Fourth Standard Parallel South, part of the distance being along what is commonly known as the Yettem Highway, to the point of beginning." "Fresno District" should be defined, or described, to mean "the Counties of Fresno, Madera, Merced, Stanislaus, San Joaquin, Contra Costa, Sacramento, and Placer, all in the State of California, and that part of Tulare County, California, which is north of the Fourth Standard Parallel, South." "Kern District" should be defined, or described, to mean "all of the State of California other than those portions of said State which are included in the Tulare and Fresno Districts."

There are three major producing areas for Emperor grapes in California. Such areas are generally separated from each other by belts of land which, for one reason or another, are not used for the production of Emperor grapes. The aforementioned proposed districts are delineated on a basis which will recognize these natural dividing lines.

(b) The provisions of § 985.2 of the proposed order, hereinafter set forth, are practicable and desirable to establish an agency to act for the Secretary in administering the proposed order under and pursuant to the act.

Identification of the aforesaid agency should be "Industry Committee" to reflect the administrative character thereof and the fact that it will be composed of

members selected from the Emperor grape industry. Such committee should be composed of nine members to provide for an adequate representation of grower interests. Of the nine members, five should represent the Tulare District, three should represent the Fresno District, and one should represent the Kern District. Such a distribution will afford each of the districts representation on the committee in approximate proportion to its acreage of Emperor grapes.

The initial members and alternate members of the committee must be selected as soon as is reasonably practicable after the effective date of the order to permit the establishment of the administrative machinery at the earliest date. As has been indicated heretofore, the marketing season for Emperor grapes begins on June 1st, and this order cannot be made effective until considerably later than that date. Therefore, there would not be time available after the effective date of the order to permit the scheduling of grower meetings for the election of nominees in the usual manner. It is concluded, therefore, that the Secretary should give prompt notice, if and when it appears probable that an order will be issued, of a meeting or meetings of producers in each district for the purpose of making nominations for members and alternate members of the committee. For obvious reasons, such nominations may be held prior to the effective date of the order, and the selections should be made by the Secretary in his discretion and on the basis of the aforementioned district representation.

The successors to the initial members and their respective alternates should be selected by the Secretary for each district from nominations submitted to him by the growers in the particular districts or from other persons in such districts. Nominees for members and alternate members should be elected at meetings of growers held after appropriate notice on or before May 1 of each year at such times and places as the Industry Committee shall designate. At each such meeting the growers eligible to participate therein should select a chairman and a secretary. After nominees have been elected, such chairman or secretary should transmit to the Secretary his certificate showing the name of each person for whom a vote was cast, whether as member or alternate member, and the number of votes received by each such person. The reasons for most of these proposed provisions are believed to be obvious. It is necessary, of course, that meetings of growers be held in the several districts for the purpose of electing the nominees, and, in order that such meetings be conducted in a proper and orderly manner, they should be presided over by officers selected by the growers. Since members and alternate members are to be selected, and are to qualify, and assume office by June 1, the designation of May 1 as the latest date on which nomination meetings should be held is necessary to provide adequate time for the Secretary to make the selections and to enable the selectees to qualify and assume office by the specified date. In order for the selection action by the Secretary to have practical effect he should not be limited, in making such selections, to the nominees submitted to him, but should be authorized to make such selections from such nominees or from other qualified persons in his discretion.

In voting for nominees for any particular district, each grower in such district should be entitled to cast for each nominee to be selected only one vote on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives engaged in growing grapes in that district, and only growers who are personally present at a meeting should be permitted to vote. Since it is intended that each nominee is to be the choice of a majority of the eligible voters, each voter should be entitled to cast only one vote for each position, regardless of the number of acres in such district which he may have planted in grapes. In case more than one person, or a corporation, is interested in the same acreage of grapes, only one vote should, on the basis of the aforementioned principle, be cast in connection with that acreage. On the other hand, any person who produces grapes in more than one district should, on the basis of the same principle, be permitted to vote in each such district.

Each person who is selected as a member, or alternate member, of the committee should be an individual grower who produced, during the season immediately prior to the season for which he is selected, at least 51 percent of the grapes shipped by him during such prior season, or such selectee should be an officer or employee of an organization which meets that condition. Also, any person selected as such member, or alternate member, should be an individual grower, or an officer or employee of an organization, which produced grapes, during the immediately preceding season, in the district for which he is so selected. It is intended that the committee be composed of grower representatives, and the indicated provisions should accomplish that result.

In the event nominations for a member or alternate member for any marketing season are not made and communicated to the Secretary on or before June 1, the Secretary should select such member or alternate member without regard to nominations. Such a provision is desirable to afford continued full representation of a district on the committee in the event a district has failed to take the required nominating action.

Each person selected as a member, or alternate member, of the committee should, prior to serving on such committee, qualify by filing with the Secretary a written acceptance. Such action is desirable to provide evidence, in writing, that the selectee has accepted such position.

The initial members and alternate members of the committee should hold office for a period beginning on the date designated by the Secretary and ending on May 31, 1949, and until their respective successors have been selected and have qualified. Successor members and alternate members should serve during the particular marketing season (June 1 to May 31) for which they have been selected, and until their respective successors have been selected and have qualified. The practice of having members and alternate members of an administrative agency of this nature serve for a period of only one marketing season, is one which is generally followed in regulatory programs of this nature. It is necessary to have incumbent members and alternate members serve until their respective successors have been selected and have qualified in order to provide continuity of administration by a full membership of the committee.

An alternate for a member of the committee should serve in such member's place and stead (1) during the member's absence, and, (2) in the event of the member's removal, resignation, disqualification, or death, until a successor to serve for such member's unexpired term has been selected and has qualified. Such provision is necessary to provide a full membership of the committee at all times to act on any and all matters presented to it. Each alternate member of the committee will, under appropriate circumstances, be acting for his respective member. Alternate members should, therefore, meet the same qualifications as members.

To fill any vacancy occasioned by the failure of any person selected as a member, or alternate member, of the committee to qualify, or in the event of the removal, resignation, disqualification, or death of any member or alternate member, a successor for such person's unexpired term should be nominated and selected in the manner, insofar as is appropriate, as is provided for the nomination and selection of members and alternate members. If a nomination to fill any such vacancy is not submitted to the Secretary within 20 days after the vacancy occurs, the Secretary should fill that vacancy without nomination. The indicated provision is desirable to insure, insofar as is practicable, that there will always be a full complement of members and alternate members to carry on the work of the committee. The limitation as to the time for submitting nominations is desirable to insure that the filling of the vacancy be not delayed unduly, and to enable the Secretary to act promptly in the matter, even though the particular district is delinquent in submitting the nomination.

Each member of the committee, and each alternate member when acting for a member or pursuant to direction of the committee, should receive compensation in the amount of $5.00 per day for (1) attending a meeting of the committee and (2) attending to such committee business as may be authorized by the committee. Also, in addition to such compensation, each member and alternate member should be reimbursed for all expenses which are necessarily incurred by him in attending meetings and in connection with business of the committee which is assigned to him for handling. The proposed compensation is at the usual rate specified in existing marketing agreements and orders regulating the handling of fruits and vegetables.

The powers of the committee should be those which are set forth in section 8c (7) (C) of the act as being necessary and

appropriate for an administrative agency of this nature to perform its duties and functions.

The committee's duties, as hereinafter set forth, are necessary and incidental to the discharge of its responsibilities. It should set as an intermediary between the Secretary and any handler or producer; keep minutes, books, and other records which will reflect clearly all of its acts and transactions, and such minutes, books, and other records should be subject to examination, at any time, by the Secretary; select, from among its members, a chairman and other officers; adopt such rules and regulations for the conduct of its business as it may deem desirable; to appoint or employ such other persons as it may deem necessary, and determine the salaries and define their duties; at the beginning of each fiscal period, and not later than August 15, submit to the Secretary a budget of its expenses and proposed assessments for such fiscal period, together with a report thereon, except that with respect to the initial fiscal period such submission should be as soon as practicable after August 15; cause the books of the committee to be audited by one or more certified public accountants at least once each fiscal period, and at such other times as the committee may deem necessary or the Secretary may request, and the report of each such audit should show, among other things, the receipt and expenditure of funds, and at least two copies of each such audit report should be submitted to the Secretary; prepare monthly statements of the financial operations of the committee, and make such statements, together with the minutes of the meetings of the committee, available for inspection by growers and handlers at the office of the committee; to investigate compliance with respect to the regulation of shipments; with the approval of the Secretary, redefine the districts into which the State of California has been divided, or change the representation from any district on the committee based, insofar as practicable, on the proportionate acreages in the respective districts during the season immediately preceding the season in which such change is made; investigate, from time to time, and assemble data on the growing, harvesting, shipping, and marketing conditions with respect to grapes, and engage in such research and service activities with respect to matters which are reasonably incidental to the other functions and duties of the committee, if the prior approval of the Secretary has been obtained; submit to the Secretary such available information as he may request; and give to the Secretary such notice of the meetings of the committee as is given to the members thereof.

The aforementioned proposed duties are generally similar to those which are customarily assigned to an administrative agency for a regulatory program of this nature. The need for most of such duties, and their desirability, are believed to be self-evident. The budget of expenses and the proposed assessments for a current fiscal period should be submitted to the Secretary not later than August 15 for the reason that grapes will begin to move in volume about 30 days thereafter, and the intervening time is needed to have such matters approved and the interested parties notified. Of course, it will not be practicable to make such submission for the initial fiscal period within such time limitation, and, therefore, such submission should be made as soon as practicable after August 15. The proposed research and service activities should be confined to matters reasonably incidental to the other functions and duties of the committee. To insure that any such research and service activities are confined to legally permissible matters, the prior approval of the Secretary thereto should be obtained.

Six members, including alternate members when acting in the place of members, should constitute a quorum. For any decision of the committee to be valid, at least five concurring votes thereon should be necessary, except that, in any case of a decision of the committee under § 985.5, at least six concurring votes should be necessary. The requirement that six members constitute a quorum will insure that two-thirds of the membership be present at a meeting for the committee to transact its business, and is a customary requirement. Furthermore, such a requirement would insure that there be present at each meeting members from at least two of the three districts. Decisions in respect to the regulation of shipments of grapes constitute important and far-reaching actions on the part of the committee, and the requirement that there be at least six concurring votes would insure their approval by two-thirds of the membership. On the other hand, the requirement that other decisions of the committee be concurred in by at least five votes would insure that such decisions are favored by a majority of the committee membership, which would seem to be adequate in those situations.

The committee should be authorized to provide for voting by its members by mail or in any other manner it may deem desirable, except that at an assembled meeting of the committee no member should be permitted to vote other than in person. Voting other than in person should be confirmed promptly in writing. It may sometimes happen that a particular meeting of the committee will have to deal with matters which are routine in nature and, in such instances, there should be no logical objection to the saving of time and expense by having the voting conducted by mail, telephone, telegraph, or some other method. The absent members should, in order to provide an official written record of their respective votes, confirm such votes in writing, if the voting was other than by mail. It is contemplated, however, that important actions, such as those relating to the determination of the marketing policy and to the imposition of regulations, should be taken by the committee only after full discussion at assembled meetings.

Upon the removal, resignation, disqualification, or expiration of the term of office of any member, or alternate member, of the committee, such member or alternate member should account for all receipts and disbursements and deliver to his successor, to the committee, or to a designee of the Secretary, all property (including, but not limited to, all books and other records) in his possession or under his control as member or alternate member, and he should execute such assignments and other instruments as would be necessary to vest in such successor, committee, or designee full title to such funds and other property vested in such member or alternate member. Upon the death of any member or alternate member of the committee, full title to such property, funds, and claims vested in such member or alternate member should be vested in his successor or, until his successor has been selected and has qualified, in the committee. The aforementioned provisions are desirable in order to insure that all property and records of the committee will be retained intact and will not become lost through intermingling with the personal property of the person acting as bailee.

(c) To act as an advisory body to the committee, there should be established a council, consisting of nine members selected by the handlers, which body, in order to reflect its nature and purpose, should be designated as the "Shippers' Advisory Council" It should prove very helpful to the committee in making its determinations, particularly with regard to the seasonal marketing policy and proposed regulations, to have the advice of handlers who, by reason of their marketing experience and their facilities or daily contacts by mail, telegraph, telephone and teletypewriter with the the receiving markets, are in a favorable position to appraise market conditions. Similar advisory bodies of handlers are provided for under other marketing agreement and order programs, and the plan has been found to be satisfactory. The fixing of the membership of the council at nine should provide ample opportunity for the selection of representative handlers. There should, of course, be an alternate member for each member, to serve in the place and stead of such member when the latter is unable to serve. Inasmuch as an alternate member is to serve for his respective member in certain circumstances, he should possess the same qualifications and be selected in the same manner, and for the same period, as the member. Members and alternate members should serve for a term of one year, beginning on July 1st. Their assumption of the duties of office on such date should give them ample time to organize and to begin to function well in advance of the active shipping season.

Eight members of the council should be elected by handlers at a general meeting of handlers, at which each handler should have one vote. The ninth member of the council should be elected jointly by the other eight members of the council and the nine members of the Industry Committee. The election of the eight members by all handlers will insure that those elected are the ones desired by a majority of the handlers. The proposal on the matter as set forth in the notice of hearing provided for the election of half of the members of the council by handlers who, during the preced-

ing season, handled 250,000, or more, standard packages of grapes, and the other half by handlers who, during the preceding season, handled less than 250,000 standard packages of grapes. It was generally agreed at the hearing, however, that the division of the handlers into two categories would not be desirable, and that over-all handler voting on the same basis would be preferable. The election of the ninth member by the Industry Committee and the other eight members of the council would permit the selection of a disinterested person not connected with the industry but who would be acceptable to growers and handlers generally.

Any individual person, except one who is a member, or alternate member, of the Industry Committee, should be eligible for membership on the council. The reason for the exclusion of members, or alternate members, of the Industry Committee is obvious. Since the elections are to be made by the handlers, they should be permitted to exercise their discretion in making their selections.

The initial meeting of handlers for the election of members and alternate members of the council should be called and conducted by the Secretary, or his designated agent, as soon as practicable after the selection of the initial members of the committee. Subsequent election meetings of handlers should be called and conducted by the committee. The calling and conducting of the initial election meeting by the Secretary and the calling and conducting of subsequent election meetings by the committee, would provide the necessary authority for the proper conduct of such meetings. The notice of hearing contained a further proposed provision that, before each election meeting, each handler should file an affidavit showing the quantity of grapes which were shipped by him during the preceding season. However, as it was proposed at the hearing to eliminate the differentiation between large and small handlers, there is no need for ascertaining the quantities of grapes handled by the individual handlers. As indicated above, such elections should be on the basis of the votes of all handlers, with each handler having one vote. The indicated proposed provision is unnecessary and would serve no useful purpose.

Members and alternate members of the council should obviously be reimbursed to the same extent as members and alternate members of the committee for the expenses incurred by them in connection with the performance of their functions hereunder. The notice of hearing also contained a proposed provision that members and alternate members of the council be paid compensation. The proposed provision was not supported at the hearing, however, and the handlers present evinced no interest in receiving compensation.

(d) The Industry Committee should be authorized to incur such expenses as the Secretary finds are reasonable and are likely to be incurred by it during the then current fiscal period for (1) the maintenance and functioning of such committee, and (2) for such research and service activities as the Secretary determines to be appropriate. The funds to cover such expenses should be acquired through the levying of assessments on handlers. The act specifically authorizes the Secretary to approve the incurring of expenses by an administrative agency, such as the committee, for such purposes as the Secretary may determine to be appropriate, and for the maintenance and functioning of such agency, and requires that each marketing order of this nature contain provisions requiring handlers to pay, pro rata, the necessary assessments in that connection.

Each handler who first handles grapes should, with respect to such handling, pay to the committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds will necessarily be incurred by the committee during the particular fiscal period, except that no assessment should be levied with respect to any shipment of grapes exempted from regulation under § 985.7 of the order. Each handler's pro rata share of such expenses should be equal to the ratio between the total quantity of grapes handled during the applicable fiscal period by such handler, as the first shipper thereof, and the total quantity of grapes handled during the same fiscal period by all handlers, as the first shippers thereof. The Secretary should fix the rate of assessment to be paid by such handlers. Any handler who handles grapes for the account of a grower should be permitted to deduct from the account sales covering such shipment or shipments the amount of the assessments levied on such grapes.

The evidence shows that it is intended to levy only one assessment on each lot of grapes shipped outside of the State of California, and that the handler who should pay such assessment is the handler who first handles such grapes. The proposed basis for ascertaining the proportion to be paid by each individual handler is in accordance with the provisions of the act. From a practical standpoint, it is desirable to calculate such payments in terms of a specified rate for each stated quantity of grapes shipped, and the placing of such duty on the Secretary is also in accordance with the provisions of the act. When a handler ships grapes for the account of a grower, the grower is the principal in the matter, with the handler acting as his agent. In these circumstances, the assessment cost should properly be borne by the grower, and the proposed provision to permit the deduction of such assessments from the proceeds of the sale makes it clear that the handler may arrange his financial accounting to accomplish that result.

The Secretary should have the authority, at any time during a fiscal period, to increase the rate of assessment when necessary to secure sufficient funds to cover any later finding by him relative to the expenses of the committee. Any such increase in the rate of assessment should be applicable to all assessable grapes handled during the particular fiscal period. It could happen that the expenses for a fiscal period exceed the committee's estimate, or that the merchantable portion of the crop of grapes is less than the original estimate thereof. To take care of such situations, it is necessary that the Secretary be authorized to revise the assessment upward, so that the required income may be available. Since the act provides that all expenses for administrative operations shall be paid by the handlers, pro rata, it is obviously necessary to have the increased rate of assessment apply retroactively against all assessable shipments during the period.

In order to provide funds to carry out the functions of the committee, any handler should be permitted to make advance payments to the committee. Such advance payments should be credited by the committee toward such assessments as might be levied later against such handler during the fiscal period. The plan of advance payments by handlers is in accordance with the usual practice in the operation of marketing agreement and order programs, and provides the administrative committee with the necessary funds during the early part of a fiscal period.

If, at the end of any fiscal period, the assessments collected exceed the expenses incurred, each handler entitled to a proportionate part of the excess funds should be credited with such amount against the assessments to be levied against him in the following fiscal period, unless such handler demands payment thereof, in which case such refund should be paid to him. The right of any handler to the return of his pro rata share of the excess funds would be recognized and preserved by providing for the payment of such refund to him in case he requests it.

The committee should, with the approval of the Secretary, be authorized to maintain in its own name, or in the names of its members, a suit against any handler for the collection of such handler's pro rata share of the expenses. Such a provision merely reiterates the provision in that regard which is contained in the act.

All funds received by the committee pursuant to these proposed provisions should be used solely for the purposes specified in the order, and should be accounted for in the manner specified in such order. The Secretary should be authorized to require the committee, at any time, to account for all receipts and disbursements. The reasons for the incorporation of such provisions in the order are believed to be obvious. The committee, in acting as the administrative agency, would naturally be charged with the responsibility of operating such program, and incurring expenses in connection therewith, strictly according to the terms and conditions of the regulatory provisions.

In order that the Secretary, who is charged by law with general supervision over such a program, may be kept currently informed as to the amounts collected and the expenditures made, the order should provide for the preparation of monthly financial statements by the committee, and an audit of the books of account at least once each fiscal period, and at such other times as the committee may deem necessary, or as the Secretary may request. At least two copies of each

audit report should be submitted to the Secretary.

(e) Provision should be made in the proposed order for the committee, prior to making its recommendation to the Secretary for the regulation of shipments by grade or for the establishment of minimum standards of quality or maturity, or both, to formulate and adopt a marketing policy to be followed during the ensuing season and to submit a report of such policy to the Secretary. Said policy report should contain, among other things, information relative to the estimated total production and shipments of grapes; the expected general quality of grapes; possible or expected demand conditions of different market outlets; estimated supplies of competitive commodities; an appropriate analysis of the foregoing factors and conditions; and the kind of regulation of shipments expected to be recommended to the Secretary. If and when changed conditions warrant such action, the committee should, subject to the aforementioned requirements with respect to the formulation and adoption of the initial marketing policy for the season, modify or amend such policy.

The establishment of a marketing policy at the beginning of each season should prove of benefit to both growers and handlers. All interested persons would thereby be informed in advance of the nature of the regulation which the committee intends to recommend to the Secretary. Thus both growers and handlers could plan their operations accordingly. The information to be set forth in the policy report is that which would normally be needed by the committee in reaching its decision on the marketing policy. Such information would also be helpful to the Secretary in making his determination with regard to the regulations required by the industry for the particular season. The committee should give reasonable notice to growers and handlers of the contents of each such marketing policy report which is submitted to the Secretary. The form of manner of such notice should be that which is reasonably designed to acquaint all interested parties with the details of the marketing policy. Copies should also be maintained in the office of the committee so that they will be available for examination by growers and handlers.

(f) Whenever the committee deems it advisable to limit shipments of grapes to particular grades, it should so recommend to the Secretary. At the time of submitting each such recommendation, the committee should submit to the Secretary the data and information upon which it acted in making such recommendation, including factors affecting the supply of, and demand for, grapes by grades, and such other information as the Secretary may request. The committee should give prompt notice to handlers and growers of each such recommendation which is submitted to the Secretary. If the Secretary should find, from the recommendation and supporting information submitted to him by the committee, or from other available information, that to limit shipments of grapes to particular grades would tend to effectuate the declared policy of the act, he should so limit the shipment of grapes during the period or periods specified by him. The Secretary should notify the committee promptly of the issuance of any such regulation, and the committee should promptly give reasonable notice thereof to handlers and growers in the manner indicated above.

Pursuant to the provisions of the act, the regulation of shipments by grade should be limited to seasons when the seasonal average price for such grapes is at or below parity. The need for such a restriction of shipments of grapes is discussed in some detail under (2) of this decision. The discussion relates to the practice of shipping grapes of inferior quality, which practice has contributed to the unsatisfactory economic conditions in the grape industry.

With regard to the standards on the basis of which such grades should be established, many handlers and growers in the grape industry have long been accustomed to using the official standards for table grapes as recommended by the United States Department of Agriculture, which standards now in effect are contained in the FEDERAL REGISTER (11 F. R. 13568) issue of November 19, 1946. The industry is familiar with such standards. Therefore, such standards as are currently in effect at the particular time should be the basis for such grades, except that variations in any of the requirements set forth therein should be permitted where appropriate and necessary to accomplish the desired objective. That is to say, the committee should have the right to recommend to the Secretary, and the Secretary should have the right to prescribe, regulation of shipments of grapes to such grades as may be marketed readily and at the same time bring a fair and reasonable return to the growers. It may happen that the achieving of that objective may not require the strict application of the United States standards in all respects, and, in such an event, there should be authority to relax such standards to the appropriate degree. Of course, for similar reasons, there should also be authority to make any such requirements more stringent in case of need for that type of action.

There was considerable discussion at the hearing as to the extent of the color requirement which might be imposed in connection with the regulation of shipments by grade. The official standards for table grapes contain color requirements for the U. S. Fancy and U. S. No. 1 grades. The evidence adduced at the hearing shows that in some localities within the area a higher degree of color can be achieved than in other localities. As the degree of maturity affects the color of grapes, the production of vineyards which ripen late is likely to be colored to a less degree than that of vineyards which ripen early. Moreover, grapes produced on what is commonly referred to as "1613 stock" usually ripen later than those from vines on other root stocks. The coloring of grapes may also be affected by soil conditions and cultural practices.

There was persuasive, but not conclusive, testimony at the hearing that the so-called uncolored grapes compare favorably with the better colored grapes with respect to taste, keeping quality, and consumer acceptability. Examination of the hearing record reveals that the so-called uncolored grapes are actually colored but to a less extent than is required in the official standards. The question at issue, therefore, is the degree of color which should be required under a grade regulation. As has been indicated, authority should exist for the modification of any requirements, including color, in the official standards when such standards are used as the basis for the establishment of grade regulations, and the determination in regard to color should be made on the bases of reasonableness, equity, and fairness, as well as to accomplish the objective of the grade regulation.

There should be provided in the proposed provision authorization for the Secretary to consider and act on the basis of the recommendation of the committee, and as there may be available to him pertinent information not in the possession of the committee, the Secretary should be authorized to consider and act on the basis of such available information also. For reasons which have been discussed hereinabove, notice of the establishment of grade regulation should be given promptly by the committee to the handlers and growers. Publication of such notice should be through ways reasonably designed to acquaint interested persons with the details, such as by radio or through newspapers having general circulation in the area.

The proposed order should contain provisions to permit continued operation of the regulatory program during the periods when the seasonal average price of grapes exceeds the parity level provided for in section 2 (1) of the act. However, such a continued operation during any such period should be predicated on the basis of restrictions of shipments under minimum standards of quality and maturity coupled with appropriate grading and inspection requirements in that connection, in lieu of the aforementioned restrictions on shipment of grapes by grades. As has been indicated heretofore, the preclusion of the shipment of grapes which are not of good grade should promote good will on the part of the public, as well as increase the over-all financial returns to growers. To revert, during periods when seasonal average prices of grapes are in excess of the parity level, to the present practice of shipping grapes of poor quality, would obviously tend to destroy much, if not all, of the previously earned good will. The suspension of all regulatory activities under the proposed program during periods when the prices for grapes are in excess of parity level would also interfere seriously with the operations of the committee. Because of the lack of continuity, it would be extremely difficult to operate the proposed program under those conditions.

Public Law 305, 80th Congress, approved August 1, 1947 (61 Stat. 707) permits minimum standards of quality and maturity, coupled with appropriate grading and inspection requirements, to be established and maintained in effect even though the seasonal average price of the regulated commodity is above

parity, if it appears that such action will tend to effectuate such orderly marketing of the particular commodity as will be in the public interest. Through the use of the aforementioned standards during any season when the seasonal average price of grapes should be above the parity level, the committee would be in a position to recommend to the Secretary that he regulate, to the extent prescribed by such minimum standards, the quality and maturity of shipments of grapes at times when the more stringent regulations by grades could not, under the law, be invoked. Such recommendations should be in terms of (i) freedom of the grapes from material impairment of the shipping or keeping quality; (ii) freedom of the grapes from material impairment of the edible quality; (iii) freedom of the grapes from serious damage to appearance; (iv) the minimum maturity requirement; or (v) any combination of the foregoing. Any grapes which would be excluded from the market for these reasons would be culls, and would be unacceptable to consumers because they would be seriously objectionable in flavor or edible quality and they would be subject to excessive and serious deterioration in transit to market or in storage or they would be very unattractive in appearance. Specification of the attributes of the elements of the quality and maturity restrictions is necessary to delineate the basis upon which any such recommendation should be made by the committee.

The structure of the provisions, authorizing the committee to recommend and the Secretary to establish, on the basis of such recommendation or other available information, the indicated minimum standards of quality and maturity should afford the necessary maximum flexibility in the establishment, modification, suspension or termination of such minimum standards which would otherwise be absent if the specific standard were detailed in the amendment. It is impracticable to estimate with precision and certainty the varying climatic and other conditions which may prevail within a particular marketing season and which may have a practicable bearing on the minimum standards of quality and maturity which are to be in effect during such season. As experience in the operation of these proposed provisions demonstrates the exact needs, appropriate adjustments in the standards may be made.

The desirability of a continuous and uninterrupted prohibition of the shipment of grapes which do not meet at least the lower standards proposed to be enforced under the minimum standards of quality and maturity was emphasized at the hearing because of the tendency on the part of some growers and shippers in the industry to ship grapes of poor quality when prices are high. The marketing of immature or grapes below the indicated minimum quality is clearly not in the best interest of consumers. The shipment of immature or low quality grapes would, because of increased consumer resistance thereto and the long distance over which most shipments must travel to the major consuming markets in the eastern part of the country, tend to result in some direct financial loss to some elements of the industry. Such a development is not conducive to the orderly marketing of grapes as will be in the public interest.

Minimum standards of quality and maturity used in this connection should prevent the shipment of grapes which are liable to deteriorate seriously in course of transportation, bearing in mind, in this regard, that most shipments of grapes are in transit at least 8 or 10 days. Grapes which are weak, crushed, wet, rain damaged, or soft or heat injured, or affected by live mildew, mold or decay will deteriorate further in transit and will arrive in the markets in wasteful and in more or less unusable condition. Such standards should prevent the shipment of grapes only when they are free from material impairment of edible quality. Grapes with mealy bug injury or which have been damaged by freezing, poor development, waterberry, or grapes possessing any defect which will cause serious deterioration in transit would be so unpalatable upon arrival in the markets that they would prove unacceptable to the public under any condition.

Nearly all of the defects causing serious impairment of the shipping or table quality of grapes are classed as serious defects in the aforementioned United States standards for table grapes, and are limited with respect to the U. S. No. 1 grade, to a total tolerance of 3 percent, by weight, including not more than one-half of 1 percent of such grapes which may be affected by decay. In view of the serious nature of these defects and the executive deterioration which normally develops from them in transit, the tolerance permitted for them under the proposed minimum standards should not exceed twice the amount allowed under the aforesaid grade.

The proposed minimum standards should also prevent the shipment of grapes which are seriously damaged in appearance. This type of defect should be considered on the basis of the appearance of each bunch of grapes. Bunches should be considered seriously damaged in appearance if they are excessively straggly, or, if they contain a material number of small, green berries, or badly scarred, sunburned, or dried berries. While such grapes might not be objectionable with respect to their edible or shipping qualities, they would not be acceptable to consumers by reason of their unattractive appearance.

In the establishment of a minimum standard of maturity of grapes, the definition of maturity should be based upon the sugar content of the grapes in the same manner as in the aforementioned United States standards for table grapes. The sugar test for such minimum standard of maturity should not be less than 16 percent soluble solids in juice, as determined by the Balling or Brix scale hydrometer, since grapes do not improve in sugar content or flavor after they are picked from the vines. Immature grapes are grapes which may not reasonably be considered to be grapes which are palatable and edible, and hence they should not be shipped at any time. The requirements for U. S. No. 1 grade for table grapes (with small additional tolerance for color, small bunches and damaged stems) closely approximates the standards which should be required to be met in order to deliver to the principal markets grapes of at least the minimum quality and maturity which are acceptable to consumers.

The inspection and certification requirements, as discussed hereinafter, should apply to periods when the proposed minimum standards of quality and maturity are in effect, as well as in periods when grade regulations are in effect, to insure compliance at all times with the currently applicable restrictions.

In order to have fair treatment for all growers with respect to the effects of any regulation of grape shipments by grades, provision should be made whereby a grower may be permitted to ship his proportionate part of his crop in any case where, for causes beyond his control, he fails to produce, in such crop, a quantity of grapes meeting the grade requirements sufficient to cover such proportionate amount. This privilege should not be extended to growers during periods when the regulation of shipments of grapes is on the basis of minimum standards of quality and maturity, since regulation of that nature is intended to keep off the market only grapes of such poor quality that they should not be marketed in any event.

Since the determination on each application for exemption will necessarily have to be made speedily, and on the basis of the facts and circumstances of the particular case, such determination should be made by the committee. However, to insure that the committee will not act arbitrarily or capriciously in any instance, any dissatisfied applicant should have the right to appeal to, and have the matter finally decided by, the Secretary. Of course, by reason of the extremely perishable nature of grapes, any such appeal from the determination of the committee should be submitted promptly to the Secretary.

As evidence that an exemption has been granted in any case, the committee should furnish the applicant with a certificate to that effect. The committee should, subject to the approval of the Secretary, adopt procedural rules to govern the issuance of exemption certificates. Such action should be taken promptly after the order becomes effective.

Upon the issuance by the Secretary of a grade regulation with respect to shipments of grapes, the committee should determine what the percentage of grapes permitted to be shipped will be to the total quantity of grapes which would be shipped in the absence of such regulation. This determination should be made in order to provide for (i) an indication of the proportion of the total production of grapes in the area that will be prohibited from being shipped as a result of the particular grade regulation, and (ii) a basis for the issuance of exemption certificates to growers who are inequitably affected as a result of such regulation.

An exemption certificate should be issued to any grower who furnishes proof satisfactory to the committee that, by

reason of conditions beyond his control, he will be prevented, because of a regulation theretofore issued and then in effect, from shipping or having shipped, a percentage of his crop of grapes equal to the percentage, determined as aforesaid, of all grapes permitted to be shipped from the area. Conditions beyond the control of growers, such as hail, frost, wind injury, or widespread insect infestation, are in contrast to conditions resulting from the lack of observance of proper cultural (including, but not limited to, overcropping) and harvesting practices. Proper cultural care and adequate thinning are necessary to produce good merchantable grapes for shipment for later consumption in fresh form. The lack of observance of such practices by growers in the production of grapes should not be considered as a proper basis for the issuance of exemption certificates. It would not be fair to permit growers who do not properly cultivate or thin their crops to ship, through the means of exemption certificates, as large a proportion of their respective crops as those growers who did engage in good cultural practices.

The industry committee should maintain adequate records of all applications submitted for exemption certificates and also of certificates issued, including the information used, in each instance, in determining the quantity of grapes to be so exempted, and a record of all shipments of exempted fruit. Such data should be submitted, from time to time, to the Secretary in order to insure proper administration of the exemption provisions.

Inspection and certification of shipments are essential to the effective supervision of the regulations by grade and by minimum standards of quality and maturity which may be established pursuant to §§ 985.5 (a) and (b) of the proposed order. It is reasonable and necessary, therefore, that each handler should be required during the effective period of any such regulation to submit each shipment of grapes from the area to inspection by a representative of the Federal-State Inspection Service and to deliver, or cause to be delivered, to the Industry Committee a copy of such inspection certificate. Such a certificate of inspection would make available to the Industry Committee and to the Secretary evidence as to the compliance or non-compliance of each such shipment with the requirements of the existing regulatory order.

No objection was voiced at the hearing as to the applicability of the foregoing provision to out-of-State shipments destined to markets for immediate consumption or to cold storages outside the area. However, there was stressed in the testimony at the hearing the likelihood that shipments held in storage (within the area) for extended periods of time would develop decay and for that reason might not meet the requirements of existing regulatory orders established pursuant to §§ 985.5 (a) or (b) if inspected after having been so stored. The question was raised, therefore, as to the construction to be placed on the wording "prior to shipment" in respect to shipments of grapes from storage. If the wording were to be construed as meaning "prior to shipment to storage" a shipment of grapes, which had been inspected and which had been found to meet the requirements of the existing regulations issued pursuant to §§ 985.5 (a) or (b) could be shipped from storage regardless of the percentage of decay therein at time of shipment. It was argued that the shipment of such grapes to market would tend to defeat the purpose of the proposed marketing agreement and order program.

It is reasonable and necessary, therefore, that there be added in the proposed order an authorization for the inspection for condition of shipments of grapes from storage. The Industry Committee should be authorized to recommend, and the Secretary to establish, the requirement that each handler, prior to making each shipment of grapes from a cold storage warehouse within the area, cause such grapes, if they have already been inspected and certified pursuant to the provisions of § 985.5 (d) (1) to be inspected by an authorized representative of the Federal-State Inspection Service for the condition of such grapes with respect to decay. Each handler should be required also to submit, or cause to be submitted, to the committee a copy of such condition certificate.

Of course, the provision authorizing condition inspection would be operative only in the event a grade regulation was in effect and the handler, prior to placing them in cold storage or soon thereafter, had had the grapes inspected and certificated as meeting the then applicable grade requirements.

It is customary in the marketing of a perishable commodity, where a portion of the crop is placed in cold storage in the producing area, to have the shipments inspected for grade before being stored or soon thereafter, and then have an inspection for condition immediately prior to shipment. There is made, therefore, the differentiation between grade and condition inspection. In this instance, condition inspection would be limited to a determination of the percentage of decay in each shipment prior to movement from storage.

Testimony presented at the hearing was to the effect that deterioration in grapes while in storage is due primarily to decay. Therefore, the condition inspection for decay should determine whether the percentage of decay in the particular shipment of grapes is within the tolerance for decay established by the existing grade regulation.

Provision should be made for the modification of any or all regulations issued by the Secretary pursuant to the provisions of this proposed order respecting grade restrictions on shipments of grapes or quality and maturity restrictions on shipments of grapes, if such modification will tend to effectuate the declared policy of the act. Provision should also be made for the suspension or termination by the Secretary of any such regulations which obstruct or do not tend to effectuate the declared policy of the act. These provisions should be stated explicitly in order to indicate clearly the plenary power of the Secretary with respect to such regulatory orders. The Secretary should, for reasons which are set forth above in connection with the issuance of such regulatory orders, be authorized to take such actions, not only on the basis of the committee's recommendation, but also on the basis of other information which is available to him.

Provision should be made for the committee to recommend to the Secretary the modification, suspension, or termination of any or all regulations established pursuant to this proposed program, and to forward to the Secretary any such recommendations, together with all pertinent information relating thereto which is in its possession. Any modification relaxing a regulation which is in effect should be made effective promptly in order to permit grapes which will meet the reduced requirements to be shipped to consuming markets as soon as practicable.

(g) In order to enable the committee to perform its powers and duties efficiently, particularly from the standpoint of insuring that only grapes meeting the current restrictions are shipped, each handler should see to it that there is furnished the committee, in such form and at such times, and substantially in such manner, as shall be prescribed by the committee and approved by the Secretary, necessary information with respect to each shipment of grapes. Such information should be furnished by each handler directly, or indirectly through some one else, such as the appropriate railroad or other transporting agency, and cold storage agencies, at his direction. Each such report should include the name of the shipper, the car number, truck license number, or boat identification, as the case may be; the number of packages of grapes or the billing weight thereof, and the grade or grades; the name of the grower for whom the grapes are shipped; the place where the shipment originated; the destination and routing; and any diversions. Such information should be compiled by the committee in summary form and made available, in such summary form, to all handlers and other interested parties who desire a copy thereof. However, such compilation, or summary, should not reveal the data with respect to any individual shipment or shipments by any individual person. The committee should not disclose to any person other than the Secretary any such information other than in the manner indicated above. The aforementioned restrictions on the disclosure of such information are in accordance with the requirements of the act.

(h) The provisions of this proposed regulatory program should not apply to shipments of grapes for consumption in a charitable institution, nor for distribution for relief purposes, nor to individual shipments of grapes by parcel post or railway express in quantities of 10 standard packages, or less. No assessments should be levied on any such grapes, nor should any shipping restriction requirements be applicable to them. The Secretary should, if he deems such action to be necessary or desirable, prescribe, on the basis of a recommendation and supporting information submitted to him by the committee, or on the basis of any other information available to

him, adequate safeguards to prevent such grapes from entering the commercial channels of trade in competition with the grapes to be regulated hereunder. Grapes disposed of to charitable institutions and for relief purposes are not considered as being in competition with grapes in commercial channels. The same is true with respect to individual shipments of not more than 10 standard packages, as such shipments normally comprise grapes which are shipped as gifts or to an individual or individuals for consumption by them, rather than for resale. It is necessary, however, to limit the exemption of the shipment of 10 packages or less to those moving by parcel post or railway express to prevent collusion or manipulation to avoid the effects of the order restrictions by "splitting-up" larger shipments into small shipments to different consignees.

(i) The provisions of §§ 985.9 to 985.17, both inclusive, as hereinafter set forth, are generally common to marketing agreements and orders now operating. The provisions of §§ 985.17 to 985.20, both inclusive, as hereinafter set forth, are also generally common to marketing agreements now operating. All such provisions are incidental to, and not inconsistent with, the act, and are necessary to effectuate the declared purposes of the act. Testimony at the hearing supports the inclusion of each of such provisions as hereinafter set forth. Those provisions which are applicable to both the proposed marketing agreement and order, identified by section numbers and titles, are as follows: § 985.9 *Right of the Secretary;* § 985.10 *Effective time; suspension, and termination;* § 985.11 *Duration of immunities;* § 985.12 *Agents;* § 985.13 *Derogation;* § 985.14 *Personal liability;* § 985.15 *Separability;* § 985.16 *Amendments;* and § 985.17 *Effect of termination or amendment.*

Those provisions which are applicable to the proposed marketing agreement only, identified by section numbers and titles, are as follows: § 985.18 *Counterparts;* § 985.19 *Additional parties;* and § 985.20 *Order with marketing agreement.*

It is hereby found and proclaimed that: (1) the parity price for grapes cannot be satisfactorily determined from available statistics of the United States Department of Agriculture on the August 1909–July 1914 base period specified in section 2 (1) of the act; and (2) the parity price for grapes can be satisfactorily determined on the August 1919–July 1929 base period specified in section 8 (e) of such act. On April 15, 1948, the parity price for grapes was $82.20 per ton, equivalent on-vine returns, whereas the actual on-vine returns to growers in 1947 averaged $36.00 per ton, or less than one half of parity.

Rulings on proposed findings and conclusions. The period ending June 10, 1948, was set by the presiding officer at the hearing as the date by which briefs must be filed by interested parties with respect to facts presented in evidence at the hearing and the conclusions which should be drawn therefrom. Such briefs were filed on behalf of the proponents of the proposed regulatory program, the Committee Opposing An Emperor Grape Marketing Agreement, and by A. Setrakian, a grower and handler of grapes. Those briefs contained proposed findings of fact, conclusions, and arguments with respect to the proposals discussed at the hearing. Every point covered in the briefs was considered carefully along with the evidence in the record in making the findings and reaching the conclusions hereinabove set forth. To the extent that such suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein, the request to make such findings, or to reach such conclusions, are denied on the basis of the facts found and stated in connection with this decision.

Recommended marketing agreement and order The following proposed marketing agreement and order (the provisions identified with an asterisk (*) apply only to the proposed marketing agreement and not to the proposed marketing order) are recommended as the detailed means by which the aforesaid conclusions may be carried out:

§ 985.1 *Definitions.* As used in this part, the following terms have the following meanings:

(a) "Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(b) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq., 61 Stat. 208, 707)

(c) "Person" means an individual, partnership, corporation, association, or any other business unit.

(d) "Grapes" means and includes all Emperor grapes grown in the area.

(e) "Area" means the State of California.

(f) "Grower" is synonymous with "producer" and means any person engaged in the production of grapes for market, or who, as the owner of the vineyard or as a tenant thereon, has a financial interest in the crop from such vineyard. As used in § 985.5 the term "grower" shall also mean the purchaser of a crop of grapes on the vines.

(g) "Handler" is synonymous with "shipper" and means any person (except a common or contract carrier of, or an operator of a cold storage warehouse for, grapes owned by another person) who, as owner, agent, or otherwise, handles grapes, or causes grapes to be handled by rail, truck, boat, or any other means whatsoever.

(h) "Handle" is synonymous with "ship" and means to buy, sell, consign, transport, or offer for transportation, or in any other way to place grapes in the current of commerce between the State of California and any point outside of the State of California: *Provided,* That this term shall not apply to persons engaged in the shipping operations (such as common or contract carriers) and operators of cold storage warehouses for others who perform their respective functions in the matter on the basis of service rates or charges and who do not have any proprietary interest in the grapes being moved.

(i) "Standard package" means the size(s) and type(s) of package or packages designated by the Industry Committee and approved by the Secretary.

(j) "Fiscal period" is synonymous with "marketing season" and means the twelve-month period beginning on the first day of June of each year, and ending on the last day of May of the following year, both dates inclusive, except that the initial fiscal period shall begin at the effective time of this order and shall end on the last day of May of the following year.

(k) "Cold storage" means the storage of grapes, under refrigeration, in a storage warehouse in the State of California.

(l) "District" means each of the following: Tulare District, Fresno District, and Kern District.

(m) "Tulare District" means that portion of Tulare County, California, which is bounded and described as follows: Beginning at the northwest corner of Township 17 South, Range 23 E. M. D., being the intersection of the county line between Tulare County and Kings County, California, with the Fourth Standard Parallel, South; running thence south along said county line to the southwest corner of Section 30, Township 23 South, Range 23 E. M. D., thence easterly following the northerly line of the south tier of sections in Township 23 South, Ranges 24 to 36, both inclusive, E. M. D., part of the distance being along the so-called Earlimart-Ducor Highway, in Range 27 E. M. D., thence south along the west line of Section 30, Township 23 South, Range 37 E. M. D., to the southwest corner thereof; thence easterly along the south lines of Sections 30, 29, 28, and 27, Township 23 South, Range 37, E. M. D., to the county line between Tulare County and Inyo County, California; thence northerly along such county line to the Fourth Standard Parallel South; and thence westerly along the Fourth Standard Parallel South, part of the distance being along what is commonly known as the Yettem Highway, to the point of beginning.

(n) "Fresno District" means the counties of Fresno, Madera, Merced, Stanislaus, San Joaquin, Contra Costa, Sacramento, and Placer, and that part of Tulare County north of the Fourth Standard Parallel, South.

(o) "Kern District" means all of the State of California, other than those portions of said State included in the Tulare and Fresno Districts.

§ 985.2 *Industry Committee*—(a) *Establishment and membership.* There is hereby established an Industry Committee consisting of nine (9) grower members; five (5) to represent the Tulare District; three (3) to represent the Fresno District; and one (1) to represent the Kern District. There shall be an alternate for each member of the committee.

(b) *Nomination and selection of initial members.* The Secretary shall give notice of a meeting, or meetings, of pro-

ducers in each district for the purpose of making nominations for the initial members and alternate members of the committee. The meetings at which the initial members and alternate members are to be nominated may be held prior to the effective date hereof. In selecting such members and their alternates, the Secretary shall make his selection upon the basis of representation provided for in this section.

(c) *Nomination of successors to initial members.* (1) The successors to the initial members and their respective alternates for each district shall be selected by the Secretary from the nominees selected by the growers of such district or from other qualified persons. Nominations for such members and alternate members shall, after reasonable notice to growers in each district, be made at meetings of growers held on or before May 1 of each season at such times and places as the Industry Committee shall designate. At each such meeting, the growers eligible to participate therein shall select a chairman and a secretary. After nominations have been made, the chairman or the secretary of such meeting shall transmit to the Secretary his certificate, showing the name of each person for whom votes have been cast, whether as member or as alternate for a member, and the number of votes received by each such person.

(2) In voting for nominees, each grower shall be entitled to cast only one vote on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives; and only growers personally present at such meetings shall be entitled to vote. Each grower shall be entitled to vote only in the district or districts in which he produces grapes, and only for as many nominees as are to be selected from such district or districts.

(d) *Eligibility for membership.* Each person selected to serve as a member or as an alternate member of the Industry Committee for any particular season shall be an individual grower who produced, during the season immediately prior to the season for which the grower has been so nominated or selected, at least fifty-one (51) percent of the grapes shipped by him during such prior season; or such person shall be an officer, employee, or agent of an organization which produced, during such prior season, at least fifty-one (51) percent of the grapes shipped by such organization during such prior season; and any such person shall be an individual grower who, or an officer, employee, or agent of an organization which produced grapes during such prior season in that particular district for which he was nominated or selected as a member or as an alternate member of such committee.

(e) *Failure to nominate.* In the event nominations for a member or alternate member of the Industry Committee are not made pursuant to paragraph (c) of this section, and communicated to the Secretary, on or before June 1 of the season for which such nominations should have been made, the Secretary may select the members and alternate members for such season without regard to nominations but such selection shall be on the basis of the representations set forth in paragraph (a) of this section.

(f) *Qualification.* Each person selected as a member or as an alternate member of the Industry Committee shall, prior to serving on the committee, qualify by filing with the Secretary a written acceptance thereof before performing any of his duties hereunder.

(g) *Terms of office.* Each initial member and alternate member of the committee selected hereunder by the Secretary shall hold office for a period beginning on the date designated by the Secretary and ending on the last day of May 1949, and until their respective successor is selected and has qualified. Members and alternate members selected subsequent to the initial members and alternate members shall serve during the marketing season for which they have been selected, and until their successors are selected and have qualified.

(h) *Alternate members.* An alternate for a member of the Industry Committee shall act in the place and stead of such member (1) during his absence, and (2), in the event of his removal, resignation, disqualification, or death, until a successor for such member's unexpired term has been selected and qualified.

(i) *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a member, or as an alternate member, of the committee to qualify, or in the event of the removal, resignation, disqualification, or death of any member or alternate member, a successor for such member's unexpired term shall be nominated and selected in the manner set forth in this section. If nominations to fill any such vacancy are not made within twenty (20) days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations but on the basis of the representations set forth in paragraph (a) of this section.

(j) *Compensation and reimbursement for expenses.* Each member of the Industry Committee, and each alternate member when acting for a member or when designated by the committee to attend, may receive compensation in an amount not in excess of five dollars ($5.00) per day (1) for attending meetings of the committee; and (2) while attending to such committee business as may be authorized by the committee. In addition to said compensation, each of the aforesaid members and alternate members may be reimbursed for all reasonable expenses necessarily incurred in attending each such meeting, or while attending to such committee business.

(k) *Powers.* The Industry Committee shall have the following powers:

(1) To administer the provisions hereof in accordance with its terms;

(2) To make rules and regulations to effectuate the terms and provisions hereof;

(3) To receive, investigate, and report to the Secretary complaints of violations hereof; and

(4) To recommend to the Secretary amendments hereto.

(l) *Duties.* The Industry Committee shall have, among other things, the following duties:

(1) To act as intermediary between the Secretary and any producer or handler;

(2) To keep minutes, books, and other records which will clearly reflect all of the acts and transactions of the committee, and such minutes, books, and other records shall be subject to examination at any time by the Secretary;

(3) To select, from among its members, a chairman and other officers, and to adopt such rules and regulations for the conduct of its business as it may deem advisable;

(4) To appoint or employ such persons as it may deem necessary, and to determine the salaries and define the duties of each such person;

(5) At the beginning of each fiscal period, and not later than the fifteenth day of August thereof, to submit to the Secretary a budget of its expenses and proposed assessments for such fiscal period, together with a report thereon: *Provided,* That, with respect to the initial fiscal period, such budget and report shall be submitted as soon as practicable after August 15;

(6) To cause the books of the committee to be audited by one or more certified public accountants, at least once each fiscal period, and at such other times as the committee may deem necessary or as the Secretary may request; and the report of each such audit shall show, among other things, the receipt and expenditure of funds pursuant hereto. At least two (2) copies of each such audit report shall be submitted to the Secretary;

(7) To prepare monthly statements of the financial operations of the committee and to make such statements, together with the minutes of the meetings of said committee, available for inspection by producers and handlers at the office of the committee;

(8) To investigate compliance with respect to the regulation of shipments pursuant hereto;

(9) With the approval of the Secretary, to redefine the districts into which the State of California has been divided herein, or change the representation from any district on the Industry Committee: *Provided,* That if any such changes are made, representation on such committee from the various districts shall be based, so far as practicable, upon the proportionate acreage of grapes in the respective districts during the season immediately preceding the season during which such changes were made;

(10) To investigate, from time to time, and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to grapes; and to engage in such research and service activities with respect to matters which are reasonably incidental to the other functions and duties of the committee, if the prior approval of the Secretary has been obtained;

(11) To submit to the Secretary such available information as he may request; and

(12) To give to the Secretary the same notice of meetings of the Industry Committee as is given to the members thereof.

(m) *Procedure.* (1) Six (6) members, including alternate members when acting for members of the Industry Committee, shall constitute a quorum. For any decision of the committee to be valid, at least five (5) concurring votes thereon shall be necessary: *Provided,* That, for any decision of the committee with respect to § 985.5 to be valid, at least six (6) concurring votes thereon shall be necessary

(2) The committee may provide for the members thereof to vote by mail, or in any other manner: *Provided,* That no member may vote other than in person at an assembled meeting of the committee or with respect to any decision under §§ 985.4 or 985.5. Voting other than in person shall be confirmed promptly in writing by the respective members so voting.

(n) *Obligation.* Upon the removal, resignation, disqualification, or expiration of the term of office of any member, or alternate member, of the Industry Committee, such member or alternate member shall account for all receipts and disbursements and deliver to his successor, to the committee, or to a designee of the Secretary, all property (including, but not limited to, all books and other records) in his possession or under his control as member or alternate member, and he shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor, committee, or designee full title to such property and funds, and all claims vested in such member or alternate member. Upon the death of any member or alternate member of the committee, full title to such property, funds, and claims vested in such member or alternate member, shall be vested in his successor, or, until such successor is selected and has qualified, in the committee.

(o) *Shippers' Advisory Council.* (1) There is hereby established a Shippers' Advisory Council (hereinafter called the "council") consisting of nine (9) members selected by the handlers in accordance with the provisions hereof. The purpose of such a council is to act as an advisory body to the Industry Committee. The duties of the council shall consist of submitting recommendations to the Industry Committee with respect to whatever regulations or quality standards may be deemed advisable, either initially, or when such regulations or standards have been proposed for consideration by the committee or by the Secretary. Members of the council shall hold office for a one-year term beginning on July 1 of the corresponding marketing season. There shall be an alternate for each member of such council. The alternate member shall possess the same qualifications as the member and shall be selected in the same manner as provided herein for the selection of members. An alternate member shall, in the event of such member's absence from a meeting of the council, act in the place and stead of such member, and, in the event of a vacancy in the office of such member, shall act in the place and stead of such member until a successor for the unexpired term of such member has been selected.

(2) Eight (8) members of the council shall be elected by handlers at a general meeting of all handlers, at which each handler shall have one vote. The ninth member of such council shall be elected jointly by the other eight members of the council and the members of the Industry Committee.

(3) Any individual person, except one who is a member or an alternate member of the Industry Committee, shall be eligible for membership on the council.

(4) The initial meeting of handlers, at which members of the council are to be elected, shall be called and conducted by the Secretary, or his agent, as soon as practicable after the selection of the initial members of the Industry Committee. Meetings for the election of members and alternate members of the council held subsequent to the initial meeting shall be called and conducted by the Industry Committee not later than July 1 of each year.

(5) The members and alternate members of the council may be reimbursed for expenses on the same basis as members and alternate members of the Industry Committee for attendance at each meeting of the council or committee, or while attending to council or Industry Committee business: *Provided,* That such meeting or business has been authorized by the committee.

§ 985.3 *Expenses and assessments*—(a) *Expenses.* The Industry Committee is authorized to incur such expenses as the Secretary may find are reasonable and are likely to be incurred by the committee during the then current fiscal period (1) for the maintenance and functioning of such committee and (2) for such research and service activities relating to the handling of grapes as the Secretary may determine to be appropriate. The funds to cover such expenses shall be acquired by the levying of assessments as provided herein.

(b) *Assessments.* (1) Each handler who first ships grapes shall, with respect to each such shipment, pay to the Industry Committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds will be incurred, as aforesaid, by the committee during such fiscal period: *Provided,* That no assessment shall be levied with respect to any shipment of grapes exempted under the provisions of § 985.7. Each handler's pro rata share of such expenses shall be equal to the ratio between the total quantity of grapes shipped by such handler as the first shipper thereof, during the applicable fiscal period, and the total quantity of grapes shipped by all handlers as the first shippers thereof, during the same fiscal period. The Secretary shall fix the rate of assessment to be paid by such handlers. Any such handler who ships grapes for the account of a grower may deduct from the account sales covering such shipment or shipments the amount of assessments levied on such grapes.

(2) At any time during a fiscal period, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses of the Industry Committee. Any such increase in the rate of assessment shall be applicable to all assessable grapes shipped during the given fiscal period. In order to provide funds to carry out the functions of the committee, any handler may make advance payments to the committee. Such advance payments shall be credited by the committee toward such assessments as may be levied hereunder against the respective handler during the then current marketing season.

(c) *Accounting.* (1) If, at the end of any fiscal period, the assessments collected exceed the expenses incurred, each handler entitled to a proportionate refund of the excess assessments shall be credited with such refund against the operations of the following fiscal period, unless such handler demands payment thereof, in which case such refund shall be paid to him.

(2) The Industry Committee may, with the approval of the Secretary, maintain in its own name or in the names of its members, a suit against any handler for the collection of such handler's pro rata share of the expenses.

(d) *Funds.* All funds received by the Industry Committee pursuant to the provisions hereof shall be used solely for the purposes herein specified and shall be accounted for in the manner herein provided. The Secretary may, at any time, require the committee and its members and alternate members to account for all receipts and disbursements.

§ 985.4 *Marketing policy.* (a) Each season, prior to making any recommendation to the Secretary for the regulation of shipments pursuant to § 985.5, and thereafter during each season when conditions shall so warrant, the Industry Committee shall formulate and adopt the marketing policy to be followed during the current season and shall submit a report of such policy to the Secretary; said policy report to contain, among other provisions, information relative to the estimated total production and shipments of grapes; the expected general quality of grapes; possible or expected demand conditions of different market outlets; supplies of competitive commodities; an appropriate analysis of the foregoing factors and conditions; and the type of regulation of shipments of grapes expected to be recommended.

(b) The Industry Committee shall give reasonable notice to growers and handers of the contents of each such report submitted to the Secretary. Copies of all such reports shall be maintained in the office of the committee where they shall be available for examination by growers and handlers.

§ 985.5 *Regulation*—(a) *By grades*—(1) *Recommendation.* Whenever the Industry Committee deems it advisable to limit shipments of grapes to particular grades during a season when the seasonal average price of grapes is at or below the level specified in section 2 (1) of the act, it shall so recommend to the Secretary. At the time of submitting each recommendation, the said committee shall submit to the Secretary the data and information upon which it acted in making such recommendation, including factors affecting the supply of, and demand for, grapes by grades, and such other infor-

mation as the Secretary may request. The said committee shall promptly give reasonable notice to handlers and growers of each recommendation submitted to the Secretary.

(2) *Establishment.* Whenever the Secretary finds, from the recommendations and supporting information submitted by the Industry Committee, or from other available information, that to limit the shipment of grapes to particular grades during a season when the seasonal average price of grapes is at or below the level specified in section 2 (1) of the act would tend to effectuate the declared policy of the act, he shall so limit the shipment of grapes during a specified period or periods. The Secretary shall immediately notify the Industry Committee of the issuance of any such regulation, and the said committee shall promptly give reasonable notice thereof to handlers and growers.

(b) *By minimum standards of quality and maturity* — (1) *Recommendation.* Whenever the Industry Committee deems it advisable, during seasons when the seasonal average price of grapes is above the level specified in section 2 (1) of the act, to establish and maintain in effect during any period minimum standards of quality or maturity, or both, governing the shipment of grapes, it shall so recommend to the Secretary. Each such recommendation shall be in terms of: (i) The freedom of the grapes from material impairment of the shipping or keeping quality; (ii) the freedom of the grapes from material impairment of the edible quality; (iii) the freedom of the grapes from serious damage to appearance; (iv) the minimum maturity requirements, if any; and (v) any combination of the foregoing. At the time of submitting any such recommendation, the Industry Committee shall submit to the Secretary the supporting data and information upon which it acted in making such recommendation. The said committee shall also submit, in support of its recommendation, such other data and information as may be requested by the Secretary, and shall give prompt notice to handlers and growers of any such recommendation.

(2) *Establishment.* Whenever the Secretary finds, from the recommendation and information submitted by the Industry Committee, or from other available information, that to establish minimum standard of quality or maturity, or both, for grapes during seasons when the seasonal average price of grapes is above the level specified in section 2 (1) of the act and to limit the shipment of grapes during any period or periods, to that meeting the minimum standards would be in the public interest, and would tend to effectuate the declared policy of the act, he shall establish such standards, designate such period, or periods, and so limit the shipment of such grapes. The Secretary shall notify the Industry Committee promptly of the minimum standards so established, and said committee shall give reasonable notice thereof promptly to handlers and growers.

(c) *Exemptions.* (1) The Industry Committee shall, subject to the approval of the Secretary, adopt procedural rules to govern the issuance of exemption certificates.

(2) In the event the Secretary issues a grade regulation pursuant to paragraph (a) of this section, the Industry Committee shall determine what the percentage of grapes permitted to be shipped from the area is of the total quantity of grapes which would be shipped from the area in the absence of such regulation. An exemption certificate shall thereafter be issued by the Industry Committee to any grower who furnishes proof, satisfactory to such committee, that by reason of conditions beyond his control, he will be prevented, because of the regulation issued, from shipping or causing to be shipped a percentage of his crop of grapes equal to the percentage determined as aforesaid of all grapes permitted to be shipped. The certificate shall permit such grower to ship, or cause to be shipped, a percentage of his crop of grapes equal to the percentage determined as aforesaid. The Industry Committee shall maintain a record of all applications submitted for exemption certificates pursuant to the provisions of this section, and shall maintain a record of all certificates issued, including the information used in determining, in each instance, the quantity of grapes thus to be exempted, and a record of all shipments of exempted grapes. Such additional information as the Secretary may require shall be recorded in the records of said committee. The Industry Committee shall, from time to time, submit to the Secretary reports stating in detail the number of exemption certificates issued, the quantity of grapes thus exempted, and such additional information as may be requested by the Secretary.

(3) If any grower is dissatisfied with the action of the Industry Committee taken with respect to his application for an exemption certificate, such grower may appeal to the Secretary: *Provided,* That such appeal shall be made promptly. The Secretary shall, upon an appeal made as aforesaid, affirm, modify, or reverse the action of the committee from which such appeal was taken. The authority of the Secretary to supervise and control the issuance of exemption certificates is unlimited and plenary; and any determination by the Secretary with respect to an exemption certificate shall be final and conclusive.

(d) *Inspection and certification*— (1) *Grade inspection.* During any period in which shipments of grapes are regulated pursuant to this section, each handler shall, prior to making each shipment of grapes (except a shipment to cold storage, as defined herein), cause such shipment to be inspected by an authorized representative of the Federal-State Inspection Service. Promptly thereafter, each such shipper shall submit, or cause to be submitted, to the Industry Committee a copy of the shipping point inspection certificate issued by the Federal-State Inspection Service, showing the grade, together with such appropriate identification as said committee may require, of all grapes so inspected: *Provided,* That this provision shall not be applicable to any shipment of grapes exempted under § 985.7.

(2) *Condition inspection.* Upon the recommendation of the Industry Committee, or on the basis of other information available to him, the Secretary may require each handler, prior to making each shipment of grapes from a cold storage warehouse, to cause such grapes, if they have already been inspected and certified pursuant to the provisions of subparagraph (d) (1) of this section, to be inspected by an authorized representative of the Federal-State Inspection Service for the condition of such grapes with respect to decay. Such condition inspection shall determine whether the percentage of decay in any such shipment of grapes is within the tolerance for decay established by the existing regulation. Promptly thereafter, each such handler shall submit, or cause to be submitted, to the Industry Committee a copy of the inspection certificate issued by the Federal-State Inspection Service, showing the condition of the grapes with respect to decay: *Provided,* That this provision shall not be applicable to any shipment of grapes exempted under § 985.7.

(e) *Modification, suspension, or termination.* Whenever the Industry Committee deems it advisable to recommend to the Secretary the modification, suspension, or termination of any or all of the regulations established pursuant to paragraph (a) or (b) of this section, it shall so recommend to the Secretary. If the Secretary finds, upon the basis of such recommendation, or upon the basis of other available information, that to modify any such regulations will tend to effectuate the declared policy of the act, he shall so modify such regulations. If the Secretary finds, upon the basis of such recommendation, or upon the basis of other available information, that any such regulations obstruct or do not tend to effectuate the declared policy of the act, he shall suspend or terminate such regulations. The Secretary shall notify the Industry Committee promptly, and such committee shall give reasonable notice promptly to handlers and growers of the issuance of each order modifying, suspending, or terminating any such regulations. In like manner, and upon the same basis, the Secretary may terminate any such modification or suspension.

§ 985.6 *Reports.* In order to enable the Industry Committee to perform its powers and duties, each handler shall be responsible for the furnishing to such committee of complete information, in such form and at such times, and in such manner as the committee shall prescribe, with the approval of the Secretary, with respect to each shipment of grapes. Where necessary or appropriate, the handler shall authorize such information to be furnished directly to the committee by the transportation or cold storage agencies involved. Each such report shall include the name of the shipper; the car number, truck license number or the boat identification, depending on the method of shipment used; the number of packages of grapes, or the billing weight thereof, and the grade or grades; the name of the grower for whom the grapes are shipped; the point of origin of the shipment; the destination, routing, and any diversions. Such informa-

tion shall be compiled by the Industry Committee and made available promptly, in summary form, to all handlers and other interested persons who request a copy thereof: *Provided,* That such compilation or summary shall not reveal the identity of the individual informants, shippers, and growers. The Industry Committee shall not disclose to any person other than the Secretary any information that may be obtained pursuant to this section, except in the aforesaid manner.

§ 985.7 *Grapes not subject to regulation.* Nothing contained herein shall be construed to authorize any limitation of the right of any person to ship grapes for consumption by a charitable institution, for distribution for relief purposes, or for distribution by a relief agency, or to make individual shipments of grapes by parcel post or railway express in quantities of ten (10) standard packages, or less. No. assessments, pursuant to § 985.3, shall be levied on grapes so shipped, nor shall such grapes be required to be inspected pursuant to § 985.5. The Secretary may prescribe, on the basis of a recommendation and information submitted to him by the Industry Committee, or on the basis of any other information available to him, adequate safeguards to prevent grapes exempted by the provisions of this section from entering the commercial channels of trade for consumption in fresh form.

§ 985.8 *Compliance.* Except as provided herein, no handler shall ship any grapes, the shipment of which is prohibited in accordance with the provisions hereof; and no handler shall ship any grapes except in conformity with the provisions hereof.

§ 985.9 *Right of the Secretary.* All members and alternate members of the Industry Committee, and persons appointed or employed by the committee, shall be subject to removal or suspension at any time by the Secretary. Each and every order, regulation, determination, decision, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove such order, regulation, determination, decision, or other act at any time, and upon such disapproval, such action of the committee shall be deemed null and void, except as to the acts done in reliance thereon, or in compliance therewith, prior to such disapproval by the Secretary. In the event the committee, for any reason, fails to perform its duties or exercise its powers hereunder, the Secretary may designate another agency to perform such duties and to exercise such powers.

§ 985.10 *Effective time; suspension; and terminations*—(a) *Effective time.* The provisions hereof shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force and effect until terminated in any of the ways hereinafter specified.

(b) *Suspension; and termination.* (1) The Secretary may, at any time, terminate the provisions hereof by giving at least one day's notice by means of a press release, or in any other manner which he may determine.

(2) The Secretary shall terminate or suspend the operation of any or all of the provisions hereof whenever he finds that such provisions obstruct or do not tend to effectuate the declared policy of the act.

(3) The Secretary shall terminate the provisions hereof at the end of any marketing season whenever he finds, by referendum or otherwise, that such termination is favored by a majority of the growers who, during such representative period as may be determined by the Secretary, have been engaged in the production for market of grapes; *Provided,* That such majority have, during such representative period, produced for market more than fifty (50) percent of the volume of such grapes produced for market within the area; but such termination shall be effective only if announced on or before the last day of May of the then current marketing season.

(4) The provisions hereof shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

(c) *Proceedings after termination.* (1) Upon the termination of the provisions hereof, the then members of the committee shall continue as joint trustees, for the purpose of liquidating the affairs of the committee, of all the funds and property then in the possession of or under the control of the committee, its members, or alternate members, including claims for any funds unpaid or property not delivered at the time of such termination. The rules to govern the activities of said trustees, including, but not limited to, the determination as to whether action shall be taken by a majority vote of the trustees, shall be prescribed by the Secretary.

(2) The said trustees shall continue in such capacity until discharged by the Secretary, and shall, from time to time, account for all receipts and disbursements and deliver all property (including, but not limited to, all books and other records of the committee and of the trustees) to such person as the Secretary may designate, and shall, upon request of the Secretary, execute such assignments, or other instruments necessary or appropriate to vest in such designee full title and right to property and funds, and all claims vested in the committee or the trustees pursuant hereto.

(3) All persons to whom funds, property, or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said trustees.

(4) All funds collected for expenses pursuant to the provisions hereof and held by such trustees or such other persons, over and above amounts necessary to meet the obligations and the expenses incurred necessarily by the trustees or such other persons in the performance of their duties hereunder, shall, as soon as practicable after the termination hereof, be returned to the handlers in proportion to their contributions made pursuant hereto.

§ 985.11 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue hereof shall cease upon the termination hereof, except with respect to acts done under and during the existence hereof.

§ 985.12 *Agents.* The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture to act as his agent or representative in connection with any one or more of the provisions hereof.

§ 985.13 *Derogation.* Nothing contained herein is, or shall be construed to be, in derogation or in modification of the rights of the Secretary, or of the United States, to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 985.14 *Personal liability.* No member or alternate member of the committee, nor any person appointed or employed by the committee, shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any handler or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate member, appointee or employee, except for acts of dishonesty.

§ 985.15 *Separability.* If any provision hereof is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder hereof, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§ 985.16 *Amendments.* Amendments hereto may be proposed, from time to time, by the Industry Committee or by the Secretary.

§ 985.17 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination hereof or of any regulation issued pursuant hereto, or the issuance of any amendment to either thereof shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision hereof or any regulation issued hereunder, or (b) release or extinguish any violation hereof, or of any regulation issued hereunder, or (c) affect or impair any right or remedy of the United States, or of the Secretary or of any other person with respect to any such violation.

§ 985.18 *Counterparts.** This marketing agreement may executed in multiple counterparts, and, when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.

§ 985.19 *Additional parties.** After the effective time hereof, any handler who has not previously executed this marketing agreement may become a party hereto, if a counterpart hereof is

executed by him and delivered to the Secretary. This marketing agreement shall take effect as to each such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this marketing agreement shall then be effective as to such new contracting party.

§ 985.20 *Order with marketing agreement.** Each signatory handler favors and approves the issuance of an order by the Secretary, regulating the handling of grapes in the same manner as is provided for in this marketing agreement, and each signatory handler hereby requests the Secretary to issue, pursuant to the act, such an order.

Filed at Washington, D. C., this 16th day of August 1948.

[SEAL] F. R. BURKE,
Acting Assistant Administrator

[F. R. Doc. 48-7514; Filed, Aug. 19, 1948; 8:55 a. m.]

[7 CFR, Part 913]

HANDLING OF MILK IN GREATER KANSAS CITY MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND TO PROPOSED AMENDMENT TO ORDER, AS AMENDED

Pursuant to Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act") and the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR, Supps., 900.1 et seq.) a public hearing was held at Kansas City, Missouri, on June 2, 1948, after the issuance of notice on May 6, 1948 (13 F. R. 2570)

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Assistant Administrator, Production and Marketing Administration, on July 9, 1948, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of filing of such recommended decision and opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on July 15, 1948 (13 F. R. 4016)

The only material issues of record were the amounts of the Class I and Class II differentials over the basic price.

Rulings on exceptions. Joint exceptions to the recommended decision were filed on behalf of the Kansas City Milk Distributors Association and Meyer Sanitary Milk Company.

In arriving at the findings and conclusions decided upon in this decision each of the exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions decided upon herein are at variance with the exceptions pertaining thereto such exceptions are overruled.

FINDINGS AND CONCLUSIONS

Findings and conclusions on the record. The findings and conclusions set forth in the FEDERAL REGISTER (F. R. Doc. 48-6329; 13 F. R. 4016) with respect to these issues are approved and adopted as the findings and conclusions of this decision as if set forth in full herein. These findings and conclusions are supplemented by the following general findings.

General findings. (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for such milk and the minimum prices specified in the proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(c) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, regulate the handling of milk in the same manner as and are applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Marketing agreement and order Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing agreement regulating the handling of milk in the Greater Kansas City marketing area" and "Order, amending the order, as amended, regulating the handling of milk in the Greater Kansas City marketing area," which have been decided upon as the appropriate and detailed means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as amended, and as hereby further amended by the attached order, which will be published with this decision.

This decision filed at Washington, D. C. this 17th day of August 1948.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

Order[1] Amending the Order, as Amended, Regulating the Handling of Milk in the Greater Kansas City Marketing Area

§ 913.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR, Supps., 900.1 et seq.) a public hearing was held on June 2, 1948, upon a proposed amendment to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Greater Kansas City marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions of said order, as amended, and as hereby further amended, will tend to effectuate the declared policy of the act.

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for such milk and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

The foregoing findings are supplementary and in addition to the findings made in connection with the issuance of the aforesaid order and the findings made in connection with the issuance of each of the previously issued amendments thereto; and all of said previous findings are hereby ratified and affirmed except insofar as such findings may be in conflict with the findings set forth herein.

Order Relative to Handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Greater Kansas City marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the aforesaid order, as amended, is hereby further amended as follows:

Delete subparagraphs (1) and (2) of § 913.5 (a) and substitute therefor the following:

(1) *Class I milk.* The price per hundredweight of Class I milk shall be the price determined pursuant to paragraph (b) of this section plus $1.00 during the months of March through August of each year and plus $1.45 during all other months of each year.

(2) *Class II milk.* The price per hundredweight of Class II milk shall be the price determined pursuant to paragraph (b) of this section plus 75 cents

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met.

during the months of March through August of each year and plus $1.20 during all other months of each year.

[F. R. Doc. 48-7510; Filed, Aug. 19, 1948; 8:53 a. m.]

[7 CFR, Part 939]

BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

NOTICE OF PROPOSED RULE MAKING

Consideration is being given to the following proposals, based upon the recommendations submitted by the Control Committee, established under the marketing agreement and Order No. 39 (7 CFR, Cum. Supp., 939.1 et seq.) regulating the handling of the Beurre d'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in the States of Oregon, Washington, and California, as the agency to administer the terms and provisions thereof, and upon other available information:

(a) That the Secretary of Agriculture find that expenses not to exceed $15,515.00 will be necessarily incurred during the fiscal period beginning July 1, 1948, and ending June 30, 1949, both dates inclusive, in order to enable the committee to perform its functions in accordance with the provisions of the aforesaid marketing agreement and order; and

(b) That the Secretary of Agriculture fix, as the share of such expenses which each handler who first handles pears shall pay in accordance with the provisions of the aforesaid marketing agreement and order during the aforesaid fiscal period, the rate of assessment of four mills ($0.004) per standard western pear box of pears, and, with respect to pears shipped in bulk or in any container other than said standard western pear box, the rate of assessment of four mills ($0.004) per 48 pounds of pears so handled by him as the first handler thereof during said fiscal period.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall mail the same to the Hearing Clerk, United States Department of Agriculture, Room 1846 South Building, Washington 25, D. C., not later than midnight of the 15th day after the publication of this notice in the FEDERAL REGISTER. All documents shall be submitted in quadruplicate.

As used herein, "handler," "handled," "shipped," "pears," "standard western pear box," and "fiscal period" shall have the same meaning as is given to each such term in the said marketing agreement and order.

(48 Stat. 31, as amended, 7 U. S. C. 601 et seq., 7 CFR, Cum. Supp., 939.5)

Issued this 17th day of August 1948.

[SEAL] CHARLES F BRANNAN, *Secretary of Agriculture.*

[F. R. Doc. 48-7513; Filed, Aug. 19, 1948; 8:54 a. m.]

[7 CFR, Parts 941, 967, 969]

HANDLING OF MILK IN CHICAGO, ILL., SUBURBAN CHICAGO, ILL., AND SOUTH BEND-LA PORTE, IND., MILK MARKETING AREAS

CONSIDERATION OF SUSPENSION OF CERTAIN PRICING PROVISIONS OF ORDERS, AS AMENDED

Notice is given that pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 1946 ed. 601 et seq.), consideration is being given to:

1. The suspension of the following proviso from § 941.5 (a) of order No. 41, as amended, regulating the handling of milk in the Chicago, Illinois, milk marketing area: "· *Provided,* That the basic formula price effective for July shall not be less than that effective for June, and that the basic formula price effective for December shall not be higher than that effective for November"·

2. The suspension of the following proviso from § 969.5 (a) of Order No. 69, as amended, regulating the handling of milk in the Suburban Chicago, Illinois, milk marketing area: "· *Provided,* That the basic formula price effective for July shall not be less than that effective for the preceding month, and that such price effective for December shall not be higher than that for the preceding month"· and

3. The suspension of the following proviso from § 967.5 (a) (5) of order No. 67, as amended, regulating the handling of milk in the South Bend-La Porte, Indiana, milk marketing area: "· *Provided,* That such price effective for July shall not be less than that effective for the previous month, and such price effective for January shall not be more than that effective for the previous month"

In accordance with the Administrative Procedure Act (Public Law 404, 79th Cong., 60 Stat. 237) all persons who desire to submit written data, views, or argument with regard to the necessity for the action under consideration are given an opportunity to do so by filing them with the Hearing Clerk, Room 1844, South Building, United States Department of Agriculture, Washington 25, D. C., not later than September 1, 1948.

Issued at Washington, D. C., this 17th day of August 1948.

[SEAL] CHARLES F. BRANNAN, *Secretary of Agriculture.*

[F. R. Doc. 48-7511; Filed, Aug. 19, 1948; 8:53 a. m.]

[7 CFR, Part 968]

HANDLING OF MILK IN WICHITA, KANS., MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND TO PROPOSED AMENDMENT TO ORDER, AS AMENDED

Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act") and the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR, Supps., 900.1 et seq.), a public hearing was held at Wichita, Kansas, on June 7, 1948, after the issuance of notice on May 20, 1948 (13 F. R. 2825)

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Administrator, Production and Marketing Administration, on July 14, 1948, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of filing of such recommended decision and opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on July 20, 1948 (13 F R. 4130)

The only material issues of record were the amounts of the Class I and Class II differentials.

Rulings on exceptions. Exceptions to the recommended decision were filed on behalf of (1) Beatrice Foods Company, (2) Steffen's Dairy Foods Company, De Coursey Cream Company, Snyder Dairy Products Company, and Marymac Dairies, and (3) Hyde Park Dairies, Inc., Boeing Airplane Company, District Lodge No. 70 International Association of Machinists, and George Siefkin.

In arriving at the findings and conclusions decided upon in this decision each of the exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions decided upon herein are at variance with the exceptions pertaining thereto such exceptions are overruled.

FINDINGS AND CONCLUSIONS

Findings and conclusions on the record. The findings and conclusions set forth in the FEDERAL REGISTER (F R. Doc. 48-6465; 13 F. R. 4130) with respect to these issues are approved and adopted as the findings and conclusions of this decision as if set forth in full herein. These findings and conclusions are supplemented by the following general findings.

General findings. (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for such milk and the minimum prices specified in the proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(c) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, regulate the handling of milk in the same manner as and are applicable only to persons in the respective classes of in-

dustrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing agreement regulating the handling of milk in the Wichita, Kansas, marketing area" and "Order, amending the order, as amended, regulating the handling of milk in the Wichita, Kansas, marketing area," which have been decided upon as the appropriate and detailed means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as amended, and as hereby further amended by the attached order, which will be published with this decision.

This decision filed at Washington, D. C., this 17th day of August 1948.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

Order[1] *Amending the Order as Amended, Regulating the Handling of Milk in the Wichita, Kansas, Marketing Area*

§ 968.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act") and the rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR, Supps., 900.1 et seq.) a public hearing was held on June 7, 1948, upon a proposed amendment to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Wichita, Kansas, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions of said order, as amended, and as hereby further amended, will tend to effectuate the declared policy of the act.

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for such milk and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

The foregoing findings are supplementary and in addition to the findings made in connection with the issuance of the aforesaid order and the findings made in connection with the issuance of each of the previously issued amendments thereto; and all of said previous findings are hereby ratified and affirmed except insofar as such findings may be in conflict with the findings set forth herein.

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Wichita, Kansas, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the aforesaid order, as amended, is hereby further amended as follows:

Delete subparagraphs (1) and (2) of § 968.4 (a) and substitute therefor the following:

(1) *Class I milk.* The price per hundredweight shall be the price determined pursuant to paragraph (b) of this section plus $1.00 during the months of April, May, and June of each year and plus $1.45 during the remaining months of each year.

(2) *Class II milk.* The price per hundredweight shall be the price determined pursuant to paragraph (b) of this section plus 75 cents during the months of April, May, and June of each year and plus $1.20 during the remaining months of each year.

[F. R. Doc. 48-7503; Filed, Aug. 19, 1948; 8:52 a. m.]

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met.

[7 CFR, Part 980]

HANDLING OF MILK IN TOPEKA, KANS., MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND TO PROPOSED AMENDMENT TO ORDER

Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act") and the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR, Supps., 900.1 et seq.) a public hearing was held at Topeka, Kansas, on June 4, 1948, after the issuance of notice on May 6, 1948 (13 F. R. 2571)

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Administrator, Production and Marketing Administration, on July 22, 1948, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of filing of such recommended decision and opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on July 28, 1948 (13 F. R. 4326)

The only material issues of record were the amounts of the Class I and Class II differentials over the basis price.

Rulings on exceptions. Exceptions to the recommended decision were filed on behalf of Beatrice Foods Company.

In arriving at the findings and conclusions decided upon in this decision each of the exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions decided upon herein are at variance with the exceptions pertaining thereto such exceptions are overruled.

FINDINGS AND CONCLUSIONS

Findings and conclusions on the record. The findings and conclusions of the recommended decision set forth in the FEDERAL REGISTER (F. R. Doc. 48-6723; 13 F. R. 4326) are hereby approved and adopted as the findings and conclusions of this decision as if set forth in full herein. These findings and conclusions are supplemented by the following general findings:

General findings. (a) The proposed marketing agreement and the order as hereby proposed to be amended and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The price calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feed, and other economic conditions which affect market supply of and demand for such milk and the minimum prices specified in the proposed marketing agreement and the order as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(c) The proposed marketing agreement and the order as hereby proposed to be amended, regulate the handling of milk in the same manner as and are applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing had been held.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing agreement regulating the handling of milk in the Topeka, Kansas, marketing area" and "Order, amending the order regulating the handling of milk in the Topeka, Kansas, marketing area," which have been decided upon as the appropriate and detailed means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and

procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as hereby amended by the attached order, which will be published with this decision.

This decision filed at Washington, D. C. this 17th day of August 1948.

[SEAL] CHARLES F BRANNAN,
Secretary of Agriculture.

Order[1] Amending the Order Regulating the Handling of Milk in the Topeka, Kansas, Marketing Area

§ 980.0 *Findings and determinations*—(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress, (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act") and the rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR, Supps., 900.1 et seq.) a public hearing was held on June 4, 1948, upon a proposed amendment to the tentative marketing agreement and to the order regulating the handling of milk in the Topeka, Kansas, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions of said order as hereby amended, will tend to effectuate the declared policy of the act.

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for such milk and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

The foregoing findings are supplementary and in addition to the findings made in connection with the issuance of the aforesaid order and all of said previous findings are hereby ratified and affirmed except insofar as such findings may be in conflict with the findings set forth herein.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met.

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Topeka, Kansas, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order as hereby amended as follows:

Delete subparagraphs (1) and (2) of § 980.5 (a) and substitute therefor the following:

(1) *Class I milk.* The price per hundredweight of Class I milk shall be the price determined pursuant to paragraph (b) of this section plus 85 cents during the months of March through August of each year and plus $1.30 during all other months of each year.

(2) *Class II milk.* The price per hundredweight of Class II milk shall be the price determined pursuant to paragraph (b) of this section plus 60 cents during the months of March through August of each year and plus $1.05 during all other months of each year.

[F. R. Doc. 48-7509; Filed, Aug. 19, 1948; 8:53 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR, Parts 40, 61]

ISSUANCE AND SUBSEQUENT MODIFICATION OF AIR CARRIER OPERATING CERTIFICATES TO PERSONS HOLDING TEMPORARY CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

NOTICE OF PROPOSED RULE MAKING

AUGUST 17, 1948.

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety Regulation, notice is hereby given that the Bureau will propose to the Board a Special Civil Air Regulation as hereinafter set forth.

Interested persons may participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should be submitted to the Civil Aeronautics Board, attention Bureau of Safety Regulation, Washington 25, D. C. All communications received within 10 days after the date of this publication will be considered by the Board before taking further action on the proposed rule.

Special Civil Air Regulation Serial Number 396 which authorizes the Administrator to issue an air carrier operating certificate, or amendments thereto, to an air carrier holding a temporary certificate of public convenience and necessity, issued by the Board, will terminate on August 31, 1948.

The purpose of this proposed Special Civil Air Regulation is to continue the issuance of air carrier operating certificates under conditions specified herein to those scheduled air carriers holding temporary certificates of public convenience and necessity.

It is anticipated that the continuation of this authorization for one year will provide sufficient time for incorporation of adequate rules in the Civil Air Regulations to govern these operations.

The text of the proposed Special Civil Air Regulation is as follows:

An air carrier operating certificate, or amendments thereto, may be issued by the Administrator to an air carrier holding a temporary certificate of public convenience and necessity, issued by the Board, authorizing such carrier to engage in scheduled air carrier operations which do not fully meet the certification and operation requirements of Parts 40 and 61 of the Civil Air Regulations, if the Administrator finds that any of such requirements can be omitted or modified without adversely affecting safety. Such omissions or modifications, when approved by the Administrator, shall be listed in the air carrier operating certificate, and the Administrator shall promptly notify the Board of the omissions or modifications approved by him and the reasons therefor.

This regulation shall terminate August 31, 1949.

This regulation is proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended.
(Secs. 205 (a) 601-610, 52 Stat. 984, 1007-1012; 49 U. S. C. 425 (a), 551-560)

Dated: August 17, 1948, at Washington, D. C.

By the Bureau of Safety Regulation.

[SEAL] JOHN M. CHAMBERLAIN,
Director

[F. R. Doc. 48-7486; Filed, Aug. 19, 1948; 8:49 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

NEW MEXICO

AIR-NAVIGATION SITE WITHDRAWAL NO. 253 ESTABLISHED

By virtue of the authority contained in section 4 of the act of May 24, 1928, 45 Stat. 729 (U. S. C. Title 49, sec. 214), it is ordered as follows:

Subject to valid existing rights, the following-described public land in New Mexico is hereby withdrawn from all forms of appropriation under the public land laws and reserved for the use of the Civil Aeronautics Administration, Department of Commerce, in the maintenance of air-navigation facilities, the reservation to be known as Air-Navigation Site Withdrawal No. 253:

NEW MEXICO PRINCIPAL MERIDIAN

T. 12 S., R. 4 W.,
Sec. 7, SE¼NE¼ and N½NE¼SE¼, those parts east of U. S. Highway No. 85 right of way;
Sec. 8, SW¼NW¼ and N½NW¼SW¼.

The area described contains approximately 100 acres.

This order shall take precedence over, but shall not modify, the order of the

Secretary of the Interior dated July 11, 1935, establishing New Mexico Grazing District No. 3, so far as it affects the above-described land.

It is intended that the public land described herein shall be returned to the administration of the Department of the Interior when it is no longer needed for the purpose for which it is reserved.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior.

AUGUST 12, 1948.

[F. R. Doc. 48-7474; Filed, Aug. 19, 1948; 8:47 a. m.]

CALIFORNIA

NOTICE FOR FILING OBJECTIONS TO PUBLIC LAND ORDER 513[1] WITHDRAWING PUBLIC LAND FOR A FIRE LOOKOUT STATION

For a period of 30 days from the date of publication of the above entitled order, persons having cause to object to the terms thereof may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior.

AUGUST 12, 1948.

[F. R. Doc. 48-7473; Filed, Aug. 19, 1948; 8:47 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. SA-172]

ACCIDENT OCCURRING AT MT. CARMEL, PA.

NOTICE OF HEARING

In the matter of investigation of accident involving aircraft of United States Registry NC-37506 which occurred at Mt. Carmel, Pennsylvania, on June 17, 1948.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, particularly section 702 of said act, in the above-entitled proceeding that a reconvening of the hearing is hereby assigned to be held August 25, 26, and 27, 1948, at 9:30 a. m. (local time) in the Empire Room, Lexington Hotel, New York, New York.

Dated at Washington, D. C., August 16, 1948.

[SEAL] ROBERT W. CHRISP,
Presiding Officer.

[F. R. Doc. 48-7485; Filed, Aug. 19, 1948; 8:48 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 9118]

PAUL F. BRADEN (WPFB)

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Paul F. Braden (WPFB) Middletown, Ohio, Docket No. 9118, File No. BML-1288; for modification of license.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 13th day of August 1948;

The Commission having under consideration the above-entitled application of Paul F. Braden requesting authorization to modify his license to operate Station WPFB, Middletown, Ohio, on 910 kc, with 1 kw power, daytime only, so as to change hours of operation from daytime only to unlimited and change power from 1 kw day to 1 kw day and 100 w night;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application be, and it is hereby, designated for hearing at a time and place to be designated by subsequent order of the Commission upon the following issues:

1. To determine the technical, financial, and other qualifications of the applicant to construct and operate station WPFB as proposed.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of station WPFB as proposed and the character of other broadcast service available to those areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of station WPFB as proposed would involve objectionable interference with any existing broadcast station and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the operation of station WPFB as proposed would involve objectionable interference with the services proposed in any other pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and population affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of station WPFB as proposed would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations with particular reference to (a) the assignment of a Class IV station on a regional channel and (b) to the areas and populations which would receive service from the proposed nighttime operation as compared with those areas and populations which would not receive service.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 48-7501; Filed, Aug. 19, 1948; 8:50 a. m.]

QUINCY BROADCASTING CO.

PUBLIC NOTICE CONCERNING PROPOSED TRANSFER OF CONTROL[1]

The Commission hereby gives notice that on June 21, 1948, there was filed with it an application (BTC-654) for its consent under section 310 (b) of the Communications Act to the proposed transfer of control of Quincy Broadcasting Company, permittee of AM station WGEM, Quincy, Illinois, by the sale of a one-third stock interest each to Quincy Newspapers, Inc., and Illmo Broadcasting Corporation. The proposal to transfer control arises out of a contract of June 14, 1948, pursuant to which Quincy Broadcasting Company and Donald F. Fischer, Lawrence J. Fischer, Richard E. Fischer, and John A. Arntson, stockholders and directors of the Broadcasting Company, will sell an aggregate of 666⅔ shares out of 1,000 shares authorized, and Quincy Newspapers, Inc., and Illmo Broadcasting Corporation will each acquire 333⅓ shares of the 666⅔ shares being transferred. Consideration for the sale of the two-thirds stock interest is $70,000, payable $35,000 by each of the purchasers for their respective one-third interests. The purchasers have also bound themselves to lend the permittee $25,000 to finance continued operation of WGEM, pending Commission consideration of the application to transfer control. Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to § 1.321 which sets out the procedure to be followed in such cases including the requirement for public notice concerning the filing of the application, the Commission was advised by applicant on August 6, 1948, that starting on August 4, 1948, notice of the filing of the application would be inserted in The Herald-Whig, a newspaper of general circulation at Quincy, Illinois, in conformity with the above section.

In accordance with the procedure set out in said section, no action will be had upon the application for a period of 60 days from August 4, 1948, within which time other persons desiring to apply for

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[1] See F. R. Doc. 48-7472, Title 43, Chapter I, Appendix, *supra.*

[1] Section 1.321, Part 1, Rules of Practice and Procedure.

the facilities involved may do so upon the same terms and conditions as set forth in the above described contract.

(Sec. 310 (b) 48 Stat. 1086; 47 U. S. C. 310 (b))

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 48-7502; Filed, Aug. 19, 1948; 8:51 a. m.]

AM STATION WSLN

PUBLIC NOTICE CONCERNING THE PROPOSED ASSIGNMENT OF PERMIT [1]

The Commission hereby gives notice that on July 27, 1948, there was filed with it an application (BAP-91) for its consent under section 310 (b) of the Communications Act to the proposed assignment of permit for AM station WSLN, Fort Lauderdale, Florida from Southland Broadcasting Corporation to George D. Gartland. The proposal to assign the permit arises out of a contract of June 30, 1948, pursuant to which Southland Broadcasting Corporation agrees to assign the construction permit for station WSLN to George D. Gartland for $5,506.69, $2,500 of which has been deposited in escrow and the balance is payable on the closing date. It is further agreed between the parties that in the event the application is designated for hearing with a competing applicant, the assignee shall have the option of terminating the agreement without liability. Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to § 1.321 which sets out the procedure to be followed in such cases including the requirement for public notice concerning the filing of the application, the Commission was advised by applicant on August 11, 1948, that starting on August 10, 1948, notice of the filing of the application would be inserted in the Fort Lauderdale News, a newspaper of general circulation at Fort Lauderdale, Florida in conformity with the above section.

In accordance with the procedure set out in said section, no action will be had upon the application for a period of 60 days from August 10, 1948, within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above described contract.

(Sec. 310 (b) 48 Stat. 1086; 47 U. S. C. 310 (b))

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 48-7503; Filed, Aug. 19, 1948; 8:51 a. m.]

[1] Section 1.321, Part 1, Rules of Practice and Procedure.

FEDERAL POWER COMMISSION

[Docket Nos. G-1033, G-1063]

TEXAS GAS TRANSMISSION CORP. AND OHIO FUEL GAS CO.

NOTICE OF FINDINGS AND ORDERS ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

AUGUST 16, 1948.

Notice is hereby given that, on August 13, 1948, the Federal Power Commission issued its findings and orders entered August 12, 1948, issuing certificates of public convenience and necessity in the above-designated matters.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 48-7469; Filed, Aug. 19, 1948; 8:46 a. m.]

[Docket No. G-1093]

LONE STAR GAS CO.

NOTICE OF APPLICATION

AUGUST 16, 1948.

Notice is hereby given that on August 9, 1948, an application was filed with the Federal Power Commission by the Lone Star Gas Company (Applicant) a Texas corporation having its principal place of business in the City of Dallas, Texas, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of a 3-inch pipeline loop of approximately 36,000 feet in length, paralleling Applicant's present 2-inch line U-25 extending from a point on Applicant's U 6-inch line approximately 3.45 miles east of Rotan in a southerly direction to Roby, Texas.

Applicant submits that the proposed loop line will increase the delivery capacity of what it calls the "Roby tap." Applicant further asserts that at the present time the delivery capacity of the "Roby tap" is inadequate to supply the demand at Roby and its environs during the winter period. The application also recites that the proposed loop line will enable the Company to maintain a balanced pressure trend on its "U" system west of Stamford, Texas, during the winter peak demand.

Applicant estimates the cost of the project to be approximately $37,500, which cost will be paid out of current funds of the Company.

Any interested State commission is requested to notify the Federal Power Commission whether the application should be considered under the cooperative provisions of § 1.37 of the Commission's rules of practice and procedure and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with reasons for such request.

The application of Lone Star Gas Company is on file with the Commission and open to public inspection. Any person desiring to be heard or to make any protest with reference to the application shall file with the Federal Power Commission, Washington 25, D. C., not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest. Such petition or protest shall conform to the requirements of § 1.8 or § 1.10, whichever is applicable, of the rules of practice and procedure.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 48-7467; Filed, Aug. 19, 1948; 8:46 a. m.]

[Docket No. G-1098]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

NOTICE OF APPLICATION

AUGUST 16, 1948.

Notice is hereby given that on August 6, 1948, Kansas-Nebraska Natural Gas Company, Inc. (Applicant) a corporation organized under the laws of the State of Kansas, with its principal place of business at Phillipsburg, Kansas, filed an application for a certificate pursuant to section 7 of the Natural Gas Act authorizing Applicant to abandon that portion of its natural gas pipe line facilities described as follows:

Approximately 9 miles of pipe line extending from McCook, Nebraska, to McCook Airfield, in Nebraska.

The facilities to be abandoned and removed were constructed and operated pursuant to a certificate of public convenience and necessity issued by this Commission and in performance of a contract with the War Department of the United States of America, Docket No. G-421.

Applicant states the service of delivering natural gas to the former military Airfield has been discontinued at the request of the State of Nebraska, the present owner and operator of the said McCook Airfield.

Applicant further states that its contract (Contract No. W-461-eng-10845) has been terminated by the Department of the Army, Corps of Engineers as of June 28, 1948, and that removal of the natural gas pipe line hereinabove described has been requested.

Any interested State commission is requested to notify the Federal Power Commission whether the application should be considered under the cooperative provisions of § 1.37 of the Commission's rules of practice and procedure and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with reasons for such request.

The application of Kansas-Nebraska Natural Gas Company, Inc., is on file with the Commission and is open to public inspection. Any person desiring to be heard or to make any protest with reference to the application shall file with the Federal Power Commission, Washington 25, D. C., not later than 15

days from date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest. Such petition or protest shall conform to the requirements of § 1.8 or § 1.10, whichever is applicable, of the Commission's rules of practice and procedure.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 48-7482; Filed, Aug. 19, 1948; 8:48 a. m.]

[Docket No. G-1099]

LONE STAR GAS CO.

NOTICE OF APPLICATION

AUGUST 16, 1948.

Notice is hereby given that on August 9, 1948, an application was filed with the Federal Power Commission by Lone Star Gas Company (Applicant) a Texas corporation with its principal place of business at Dallas, Texas, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of the following described natural gas facilities:

Approximately thirty-nine (39) miles of 10 inch steel pipe line beginning at Crush Junction, Hopkins County, Texas and extending north to a point on Applicant's Line "E" approximately a mile west of Paris, Lamar County, Texas.

Applicant states that the proposed pipeline (designated as "O-33") will become a part of its interstate transmission system through which natural gas will be transported into Hugo, Choctaw County, Oklahoma as well as to serve the demands of consumers in Paris and other Texas communities lying east and west thereof.

Applicant further states that the proposed pipeline (O-33) when constructed will have available to it natural gas being gathered by line "O-R" from the Coke and Winnsboro Fields, and to be gathered from fields within the vicinity thereof, which is residue gas from numerous oil wells.

Applicant further states that the total estimated over-all capital cost is $586,084.

Any interested State commission is requested to notify the Federal Power Commission whether the application should be considered under the cooperative provisions of § 1.37 of the Commission's rules of practice and procedure and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with reasons for such request.

The application of Lone Star Gas Company is on file with the Commission and is open to public inspection. Any person desiring to be heard or to make any protest with reference to the application shall file with the Federal Power Commission, Washington 25, D. C., not later than 15 days from date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest. Such petition or protest shall conform to the requirements of § 1.8 or § 1.10, whichever is applicable, of the Commission's rules of practice and procedure.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 48-7468; Filed, Aug. 19, 1948; 8:46 a. m.]

[Project No. 596]

UTAH POWER & LIGHT CO.

NOTICE OF ORDER APPROVING EXHIBIT

AUGUST 16, 1948.

Notice is hereby given that, on August 16, 1948, the Federal Power Commission issued its order entered August 12, 1948, in the above-designated matter, approving Supplemental Exhibit K and L for incorporation in the license.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 48-7470; Filed, Aug. 19, 1948; 8:46 a. m.]

[Project No. 1437]

REPUBLIC POWER CO.

NOTICE OF ORDER ACCEPTING SURRENDER OF LICENSE

AUGUST 16, 1948.

Notice is hereby given that, on August 13, 1948, the Federal Power Commission issued its order entered August 12, 1948, in the above-designated matter, accepting surrender of license, effective as of January 1, 1948.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 48-7471; Filed, Aug. 19, 1948; 8:46 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 52-27, 54-125, 59-22]

NORTH AMERICAN GAS AND ELECTRIC CO. ET AL.

NOTICE OF FILING AND NOTICE OF AND ORDER RECONVENING HEARINGS IN CONSOLIDATED PROCEEDINGS

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C. on the 13th day of August 1948.

In the matter of North American Gas and Electric Company, Washington Gas and Electric Company, Nathan A. Smyth and Leo Loeb, trustees of the estate of Washington Gas and Electric Company, Southern Utah Power Company, et al., respondents, File No. 59-22; Nathan A. Smyth and Leo Loeb, as trustees in reorganization under Chapter X of the Bankruptcy Act of Washington Gas and Electric Company, debtor, File No. 52-27; Nathan A. Smyth and Leo Loeb, as trustees in reorganization under Chapter X of the Bankruptcy Act of Washington Gas and Electric Company, debtor, Southern Utah Power Company, File No. 54-125.

Notice is hereby given that Nathan A. Smyth, as Trustee in Reorganization under Chapter X of the Bankruptcy Act of Washington Gas and Electric Company, Debtor ("Washington"), a public utility and registered holding company, has filed with the Commission an application for approval of Amendment No. 2 to his Plan for Reorganization of Washington, submitted pursuant to section 11 (f) of the Public Utility Holding Company Act of 1935 (the "act")

All interested persons are referred to the said Amendment No. 2, which is on file in the offices of this Commission, for a statement of the transactions and modifications proposed therein.

The principal changes in the plan heretofore filed to be effected by the said Amendment No. 2 are summarized briefly as follows:

1. Washington would issue $490,000 principal amount of new First Mortgage Bonds, instead of the $782,250 thereof heretofore proposed, and 63,027 shares of no par value common stock, instead of the 93,642 shares of $10 par value common stock heretofore proposed. Such bonds and shares of stock, as well as the common stock of Washington's sole subsidiary, Southern Utah Power Company ("Southern Utah") would be distributed among the bondholders and general creditors of Washington; with no participation accorded to the 7% Preferred Stockholders of Washington since it is the stated belief of the Trustee that the total value of the assets distributable to the bondholders and general creditors will be less than the full amount of their claims with interest. The plan further provides that, as hereinafter described, Washington's new bonds and the common stock of Southern Utah may be sold and the proceeds of such sales distributed in lieu of the securities.

2. Subject to such changes as the United States District Court for the Southern District of New York, wherein the bankruptcy proceedings as to Washington are pending, might authorize upon notice to this Commission, the new bonds would be secured by a first mortgage on all of the fixed assets of the reorganized company, would bear interest at 4% per annum, would mature in not less than 25 years, would be redeemable at not more than 105% of the face value thereof and would have a sinking fund sufficient to retire at least 40% of the total issue by maturity.

3. The unpaid balance of the claims of the bondholders totals $1,985,610.20, exclusive of interest during bankruptcy, and the unpaid balance of the claims of general creditors, exclusive of interest during bankruptcy, amounts to $15,559.22, totalling respectively 99.223% and 0.777% of the aggregate of such claims. It is proposed to make allocations of Washington's new bonds and common stock and of the common stock of Southern Utah to the bondholders and general creditors of Washington in the ratio of 99.223% to the bondholders and 0.777% to the general creditors. The proposed allocations of securities are to be made as follows:

TABLE I

	Per $1,000 bond	Total
6 percent bondholders:		
Original principal amount	$1,000	$3,129,000
Present claim	634.58	1,985,610
Amounts of bases for allocation of new securities:		
Washington's new 4% bonds—$100 face amount for each old $1,000 bond, representing 15.75% of present claim	[1] 100	[1] 312,900
Washington's common stock (no par)—20 shares for each old $1,000 bond, representing 1 share for each $26.73 of claim remaining after deduction of face amount of new bonds distributed	*Shares* 20	*Shares* 62,580
Southern Utah common stock (no par)—same basis as above for Washington's common stock	20	62,580
General creditors:		
Present claim		$15,559
Amounts of and bases for allocation of new securities:		
Washington's new 4% bonds—face amount equal to 15.75% of present claim		[1] 2,450
Washington's common stock (no par)—1 share for each $26.73 of claim remaining after deduction of face amount of new bonds distributed		*Shares* 490
Southern Utah common stock (no par)—same basis as above for Washington's common stock		490

[1] Face amount.

Fractional shares of stock and bonds in denominations other than multiples of $10 will not be issued. To the extent that a claim is not provided for by the distribution of full shares of stock and bonds in multiples of $10, it will be paid in cash, and such payments will reduce the number of common shares of Washington and of Southern Utah required for distribution from 63,070 indicated in table I above to 63,027.

4. In order to provide 152 additional shares of common stock of Southern Utah which will be necessary to make the foregoing distributions and allocations, it is proposed that Southern Utah will declare and pay to Washington a stock dividend of 152 shares of its no par value common stock at a stated value to be fixed by the directors of Southern Utah.

5. The Plan proposes that the Trustee be authorized to sell, at any time within three months after the confirmation of the Plan (or any extension of such time as authorized by the court on notice to this Commission) Washington's new bonds and the shares of Southern Utah common stock. It is proposed that the bonds may be sold at not less than their face value, and at a price and subject to such changes in the interest rate as may be approved by the court upon notice to this Commission. The shares of Southern Utah no par value common stock may be sold at such price as the court may authorize, but for not less than $10 per share unless the court, upon notice to this Commission and Washington's known creditors, shall authorize the sale at a lower price. If the bonds or stock or both are sold, $315,350 of the proceeds of the bonds and all the proceeds of the stock would be distributed pro rata among the bondholders and the general creditors in accordance with the allocations set forth in table I above.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that hearings in these consolidated proceedings be reconvened and that a hearing be held with respect to said plan of reorganization of Washington as amended, or as it may hereafter be modified, and with respect to any other plans which may be proposed by the Commission or any person having a bona fide interest in the reorganization, in accordance with the provisions of section 11 of the act;

It is ordered, That a hearing in such consolidated proceedings under the applicable provisions of the act and rules of the Commission be reconvened on September 14, 1948, at 10 a. m., e. d. s. t., in the office of the Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. On such day the hearing room clerk in Room 101 will advise as to the room in which such hearing will be held. In the event that further amendments to the Plan are filed during the course of said proceedings, no notice of such amendments will be given unless specifically ordered by the Commission. Any person desiring to receive further notice of the filing of any additional plans or amendments should request such notice of the Trustee or should file an appearance in these proceedings. Any person, who has not heretofore entered his appearance, desiring to be heard or otherwise wishing to participate in this proceeding shall file with the Secretary of this Commission, on or before September 10, 1948, a written request relative thereto as provided by Rule XVII of the Commission's rules of practice.

It is further ordered, That Edward C. Johnson, or any other officer or officers of the Commission designated by it for that purpose, shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said act, and to a hearing officer under the Commission's rules of practice.

It is further ordered, That without limiting the scope of the issues to be considered in these consolidated proceedings, there will be considered at such reconvened hearing the matters and questions set forth in our notice of and order reconvening hearings herein, dated August 21, 1946 (Holding Company Act Release No. 6855) insofar as they are applicable to Washington, and more particularly, the following matters and questions:

1. Whether the aforementioned Plan, as submitted or as modified, is feasible, and fair and equitable to the persons affected thereby.

2. Whether, and to what extent, the Plan, as submitted or as amended, should be modified, or terms and conditions imposed, to ensure adequate protection of the public interest and the interests of investors and consumers and to prevent circumvention of the act and rules and regulations thereunder.

3. Whether the proposed issue or sale of bonds is reasonably adapted to the security structure and earning power of Washington, and whether financing by the issue and sale of bonds is necessary or appropriate to the economical and efficient operation of the business of Washington.

4. Whether the proposal that the Trustee may sell the proposed bonds of Washington and the common stock of Southern Utah, instead of distributing them, is feasible and fair and equitable.

5. Whether, in the event that the Commission does not approve the Plan, as submitted or as amended, the Commission should approve a plan proposed by the Commission or any plan heretofore or hereafter filed by any person having a bona fide interest in the reorganization.

It is further ordered, That the Secretary of the Commission shall serve notice of the hearing aforesaid by mailing a copy of this order by registered mail to Nathan A. Smyth and Leo Loeb, Trustees of Washington Gas and Electric Company, Debtor, to Southern Utah Power Company, the Cities of Tacoma, Washington and Cedar City, Utah, the Federal Power Commission, the Department of Public Utilities of the State of Washington, The Continental Bank and Trust Company of New York, indenture trustee under the mortgage securing Washington's First Lien and General Mortgage 6% Bonds, and to The Chase National Bank of the City of New York, indenture trustee under the mortgage securing Washington's First Mortgage Bonds; that notice shall be given to all other persons by general release of the Commission which shall be distributed to the press and mailed to the mailing list for releases issued under the act; and that further notice be given to all persons by publication of this order in the FEDERAL REGISTER.

It is further ordered, That Nathan A. Smyth, Trustee of Washington Gas and Electric Company, Debtor, shall give notice of the said hearing by mailing copies of this notice of and order for hearing to all participants in these proceedings, or their respective attorneys, and to all persons who have appeared in the reorganization proceeding of Washington Gas and Electric Company, Debtor, in the United States District Court for the Southern District of New York (File No. 79529) at their respective last known addresses at least twenty days prior to the date of said hearing.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 48-7479; Filed, Aug. 19, 1948; 8:48 a. m.]

[File No. 70-1889]

KENTUCKY UTILITIES CO.

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 13th day of August A. D. 1948.

Kentucky Utilities Company ("Kentucky") a subsidiary of The Middle West Corporation, a registered holding company, having filed a declaration and amendments thereto pursuant to the Public Utility Holding Company Act of 1935 ("act") and the rules and regulations promulgated thereunder, with respect to the following transactions:

Kentucky proposes to sell to Central Kentucky Natural Gas Company ("Gas Company") a public utility subsidiary of Columbia Gas System, Inc., a registered holding company, all the gas utility properties of the company located within the corporate limits of the city of Lexington, Kentucky, for a consideration equivalent to the original cost of said property less accrued depreciation thereon on the closing date, plus the amount of net additions made by the company to said properties between December 31, 1947, and the date upon which the transaction is consummated, and the adjusted amount of the 1948 ad valorem tax on said property. It is stated that said gas utility assets have been operated by Gas Company pursuant to a lease arrangement since December 15, 1905. Kentucky also proposes to sell to D. P. Newell and J. D. Van Hooser ("Purchasers") all the gas plants, gas transmission mains, gas distribution mains and systems of the company located in and in the vicinity of the cities of Paris and Maysville, Kentucky, for a cash consideration equivalent to $330,000, plus the amount of net additions made by the company to said properties between December 31, 1947, and the date upon which the transaction is consummated, the cost to the company of the materials and supplies on hand at the date of consummation of the transaction, which are used and useful in the operation and maintenance of the properties to be sold, and the adjusted amount of 1948 ad valorem tax on said property. It is stated that the net cash proceeds to be derived from the proposed sales, estimated by the company to be approximately $573,000 with respect to the sale to Gas Company and approximately $332,000 with respect to the sale to Purchasers, will be deposited with Continental Illinois National Bank and Trust Company of Chicago, Illinois, Trustee under the company's mortgage dated May 1, 1947, and will be withdrawn within one year in accordance with the provisions of said mortgage and expended for additions and extensions to the company's electric utility plant and system.

The declaration contains an order of the Public Service Commission of Kentucky authorizing the proposed transactions; and

Said declaration having been filed on July 13, 1948, and amendments thereto having been filed on July 16, 1948, and on July 28, 1948, and notice of such filing having been duly given in the manner prescribed by Rule U-23 promulgated under said act, and the Commission not having received a request for hearing with respect to said declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said declaration, as amended, that the requirements of the applicable sections of the act and the rules and regulations thereunder are satisfied and finding it appropriate in the public interest and in the interest of investors and consumers that said declaration, as amended, be permitted to become effective; and

The Commission finding that Kentucky is engaged primarily in the electric utility business and therefore the disposition by Kentucky of its gas utility properties located in the city of Lexington and in or in the vicinity of Paris, Bourbon County, and Maysville, Mason County, all in the Commonwealth of Kentucky, is necessary and appropriate for compliance with section 11 (b) (1) of the act; and

Kentucky having requested that the Commission's order permitting the declaration to become effective conform to the requirements of sections 371, 372, 373 and 1808 (f) of the Internal Revenue Code, as amended, and the Commission deeming it appropriate to grant this request:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act and subject to the terms and conditions prescribed in Rule U-24 that the declaration, as amended, be, and hereby is, permitted to become effective forthwith.

It is further ordered and recited, That the sale by Kentucky Utilities Company of (1) its gas utility properties located within the corporate limits of the city of Lexington for an amount in cash equal to the aggregate of (a) $569,957.67, (b) the amount of net additions made by Kentucky Utilities Company to said properties between December 31, 1947, and the date of sale and (c) the adjusted amount of the 1948 ad valorem tax on said properties, and (2) its gas utility properties located in or in the vicinity of the cities of Paris, Bourbon County, and Maysville, Mason County, in the Commonwealth of Kentucky for an amount in cash equal to the aggregate of (a) $330,000, (b) the amount of net additions made by Kentucky Utilities Company to said properties between December 31, 1947, and the date of sale, (c) the cost to Kentucky Utilities Company of materials and supplies on hand at the date of sale, and (d) the adjusted amount of the 1948 ad valorem tax on said properties, and the expenditure within 24 months from the consummation of said respective sales, of an amount equal to the proceeds received from said sales, respectively, for property consisting of additions and extensions to its electric utility plant and system, are necessary or appropriate to the integration or simplification of the holding company system of which Kentucky Utilities Company is a member and are necessary or appropriate to effectuate the provisions of section 11 (b) (1) of the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 48-7477; Filed, Aug. 19, 1948; 8:47 a. m.]

[File No. 70-1918]

ENGINEERS PUBLIC SERVICE CO. (INCORPORATED)

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 12th day of August A. D. 1948.

Notice is hereby given that a declaration has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by Engineers Public Service Company (Incorporated) a registered holding company. Declarant designates section 7 of the act as applicable to the proposed transaction.

Notice is further given that any interested person may, not later than September 1, 1948, at 5:30 p. m., e. d. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said declaration which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after September 1, 1948, said declaration, as filed or as amended, may be granted as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transaction as provided in Rule U-20 (a) and U-100 thereof.

All interested persons are referred to said declaration which is on file in the offices of this Commission for a statement of the transaction therein proposed, which is summarized as follows:

Declarant proposes to issue to Irving Trust Company a short-term promissory note in the principal amount of $900,000 and dated September 27, 1948. Said note will mature January 27, 1949 and will bear interest at the prime interest rate of said bank in effect at the issue date. The declaration includes a copy of a letter from Irving Trust Company which states that its prime rate, as at July 2, 1948, was 1½% per annum. The declaration states that the proceeds of said note will be used to pay off a note in the same principal amount maturing September 27, 1948 and now held by Irving Trust Company. Declarant now owns 162,612 shares of the common stock of Virginia Electric and Power Company and indicates in the declaration that prior to the maturity date of the note proposed to be issued, it will consider the advisability of selling a sufficient number of shares of such common stock to retire all or a part of said note.

It is represented by the Declarant that the proposed transaction is not subject to the jurisdiction of any State Commission or Federal Commission other than this Commission and that the expenses, consisting of counsel fees, in connection with the proposed transaction will amount to $200.

Declarant requests that the Commission order be issued by September 17, 1948 and that such order become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 48-7478; Filed, Aug. 19, 1948; 8:48 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 11502]

ALBERT PETRASCH

In re: Estate of Albert Petrasch, deceased. File D 28-11629-E. T. 13838.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Mrs. M. Biermann, nee Petrasch, Frau Antonie Ehring, nee Petrasch, Miss Elizabeth Petrasch and Albert Rangier, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That the heirs, next of kin, and distributees, names unknown, of Albert Petrasch, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany),

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the estate of Albert Petrasch, deceased, is property payable or deliverable to, or claimed by the aforesaid nationals of a designated enemy country (Germany),

4. That such property is in the process of administration by Rev. Meinrad Hoffman, Administrator, acting under the judicial supervision of the Circuit Court of Spencer County, State of Indiana,

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof and the heirs, next of kin, and distributees, names unknown, of Albert Petrasch, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 25, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON, *Assistant Attorney General, Director Office of Alien Property.*

[F. R. Doc. 48-7487; Filed, Aug. 19, 1948; 8:49 a. m.]

[Vesting Order 11727]

S. FUJITA

In re: Bank account and bonds owned by S. Fujita. F-39-3323-A-1, F-39-3323-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That S. Fujita, whose lost known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan)

2. That the property described as follows:

a. That certain debt or other obligation owing to S. Fujita by Irving Trust Company, One Wall Street, New York, New York, arising out of a Current Account, entitled Mr. S. Fujita, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

b. Five (5) Oriental Development Co. Ltd. 30 years External Loan 6% Debenture Bonds, of $5,000.00 aggregate face value, bearing the numbers 70, 1934, 8603, 6738 and 10370, in bearer form and presently in the custody of Irving Trust Company, One Wall Street, New York, New York, together with any and all rights thereunder and thereto, and

c. One (1) Oriental Development Co. Ltd. 30 yr. External Loan 5½% Debenture Bond, of $1,000.00 face value, bearing the number 10414, in bearer form, and presently in the custody of Irving Trust Company, One Wall Street, New York, New York, together with any and all rights thereunder and thereto,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 27, 1948.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON, *Deputy Director, Office of Alien Property.*

[F. R. Doc. 48-7488; Filed, Aug. 19, 1948; 8:49 a. m.]

[Vesting Order 11720]

WALTER H. HELM

In re: Bank accounts, bond and stock owned by Walter H. Helm. F-28-3070-A-1, F-28-3070-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Walter H. Helm, whose last known address is 53 Yamashita/Cho Nakaku, Yokohama, Japan, is a resident of Japan and a national of a designated enemy country (Japan),

2. That the property described as follows:

a. That certain debt or other obligation owing to Walter H. Helm, by The National City Bank of New York, 55 Wall Street, New York 15, New York, arising out of a Checking Account, entitled Mr. Walter H. Helm, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same,

b. That certain debt or other obligation owing to Walter H. Helm, by The National City Bank of New York, 55 Wall Street, New York 15, New York, arising out of a Compound Interest Account, account number A85394, entitled Mr. Walter H. Helm, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same.

c. One (1) Erie Railroad Company General Mortgage Income Bond, Series A, of $250.00 face value, bearing the number GA5915, presently in the custody of The National City Bank of New York, 55 Wall Street, New York 15, New York, together with any and all rights thereunder and thereto, and

d. Those certain shares of stock described in Exhibit A, attached hereto and by reference made a part hereof, presently in the custody of The National City Bank of New York, 55 Wall Street, New York 15, New York, together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence

of ownership or control by, the aforesaid national of a designated enemy country (Japan)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 27, 1948.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director,
Office of Alien Property.

EXHIBIT A

Issuing corporation	State of incorporation	Certificate No.	Number of shares	Par value	Type of stock	Registered owner
Erie Railroad Co., Midland Bldg., 101 Prospect Ave. NW., Cleveland, Ohio.	New York	C02909	40	No par	Common	Hurley & Co., 25 Wall St., New York 15, N. Y.
Do	do	P023195	2	$100.00	Preferred series A.	Do.
The Pennsylvania R. R. Co., Broad St. Station Bldg., Philadelphia, Pa.	Pennsylvania	N701501	20	50.00	Capital	

[F. R. Doc. 48-7489; Filed, Aug. 19, 1948; 8:49 a. m.]

[Vesting Order 11740]

ELSIE COMBE FEMPPEL

In re: Check owned by Elsie Combe Femppel. F-28-28890-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Elsie Combe Femppel, whose last known address is Stuttgart, Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows: That certain debt or other obligation evidenced by a certified check numbered 5935, in the amount of $100.00, and presently in the custody of American State Bank, Milwaukee, Wisconsin, and any and all rights to demand, enforce and collect the aforesaid debt or other obligation including any and all rights in, to and under the aforesaid check,

is properly within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Elsie Combe Femppel, the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 29, 1948.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 48-7490; Filed, Aug. 19, 1948; 8:49 a. m.]

[Vesting Order 11749]

LOUISA MESSERER ET AL.

In re: Jewelry and mortgage participation certificates owned by and debts owing to Louisa Messerer, and others. F-28-22176-A-1, F-28-22176-C-1, F-28-22176-C-2, F-28-27885-A-1, F-28-27885-C-1, F-28-28303-C-1, F-28-28301-C-1, F-28-28305-C-1, F-28-28304-C-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the persons, whose names and last known addresses are listed below:

Name and Address

Louisa Messerer, Bollmannstrasse 43, Bremen, Germany.

Mathilde Lucking, also known as Mathilde Luecking, Wischhausen-Strasse 29, Bremen, Germany.

Hans Messerer, Bilkestrasse 29, Bremen, Germany.

Dina Lucking, Bremen, Germany.

Helen Ortmann, also known as Helene Ortmann, nee Strube, and as Helene Strube Schencke Ortmann, Erfurt, Germany.

Gertrude Strube, Erfurt, Germany.

Nelly Messerer, Olbersstrasse 22, Bremen, Germany.

Karl Strube, Erfurt, Germany.

Paul Strube, Sondershausen, Germany.

are residents of Germany and nationals of a designated enemy country (Germany),

2. That the property described as follows: One (1) Gypsy ring with diamond, blue and red stone, presently in the custody of C. Wallace Vail, 60 Park Place, Newark, New Jersey,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Louisa Messerer, the aforesaid National of a designated enemy country (Germany)

3. That the property described as follows:

a. Two (2) blue enameled pins, presently in the custody of C. Wallace Vail, 60 Park Place, Newark, New Jersey.

b. One (1) Caldwell Mortgage & Title Abstract Co. mortgage participation certificate of $200.00 face value, bearing the number 325, registered in the name of and presently in the custody of Camp Ideal, Inc., 18 Seaside Boulevard, Staten Island 5, New York, together with any and all rights thereunder and thereto, and

c. That certain debt or other obligation owing to Mathilde Lucking, also known as Mathilde Luecking, by Camp Ideal, Inc., 18 Seaside Boulevard, Staten Island 5, New York, in the amount of $323.23, as of October 25, 1946, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Mathilde Lucking, also known as Mathilde Luecking, the aforesaid national of a designated enemy country (Germany)

4. That the property described as follows: One (1) Gypsy setting diamond ring, presently in the custody of C. Wallace Vail, 60 Park Place, Newark, New Jersey,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Hans Messerer, the aforesaid national of a designated enemy country (Germany)

5. That the property described as follows: One (1) necklace with blue enameled locket with diamond in the center, presently in the custody of C. Wallace Vail, 60 Park Place, Newark, New Jersey,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Dina Lucking, the aforesaid national of a designated enemy country (Germany)

6. That the property described as follows:

a. One (1) bracelet with diamond and blue and green stones presently in the custody of C. Wallace Vail, 60 Park Place, Newark, New Jersey, and

b. That certain debt or other obligation owing to Helene Ortmann, also known as Helene Ortmann, nee Strube, and as Helene Strube Schencke Ortmann, by C. Wallace Vail, 60 Park Place, Newark, New Jersey in the amount of $7.50, as of May 1, 1947, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Helene Ortmann, also known as Helene Ortmann, nee Strube, and as Helene Strube Schencke Ortmann, the aforesaid national of a designated enemy country (Germany)

7. That the property described as follows: That certain debt or other obligation owing to Gertrude Strube by C. Wallace Vail, 60 Park Place, Newark, New Jersey, in the amount of $7.50, as of May 1, 1947, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Gertrude Strube, the aforesaid national of a designated enemy country (Germany)

8. That the property described as follows:

a. Two (2) Caldwell Mortgage & Title Abstract Co. mortgage participation certificates of $2,600.00 and $500.00 face value, bearing the numbers 285 and 308 respectively, registered in the name of and presently in the custody of Carlos A. Hepp, Attorney-in-Fact, 223 Glenwood Road, Englewood, New Jersey, together with any and all rights thereunder and thereto, and any and all rights under any outstanding checks issued by said Caldwell Mortgage & Title Abstract Co., representing payments thereon, and

b. That certain debt or other obligation of Carlos A. Hepp, 233 Glenwood Road, Englewood, New Jersey, in the amount of $680.81, as of May 2, 1948, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Louisa Messerer, Hans Messerer, Nelly Messerer, Gertrude Strube, Helene Ortmann, also known as Helene Ortmann, nee Strube, and as Helene Strube Schencke Ortmann, Karl Strube, Paul Strube and Mathilde Lucking, also known as Mathilde Luecking, the aforesaid nationals of a designated enemy country (Germany)

and it is hereby determined:

9. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 29, 1948.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director
Office of Alien Property.

[F. R. Doc. 48-7491; Filed, Aug. 19, 1948; 8:49 a. m.]

[Vesting Order 11750]

VALENTINE AND LONA PAUL

In re: Trust certificate owned by and debt owing to Valentine Paul and Lona Paul. F-28-28291-A-1, F-28-28291-C-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Valentine Paul and Lona Paul, each of whose last address is Hofenerstrasse 191, Bayern, Nurnberg (13a), United States Zone, Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That the property described as follows:

a. One (1) Class "A" Trust Certificate for 100 units of a trust covering the Bradford Apartments, 687 Brainard Street, Detroit, Michigan, issued by the First Mortgage Bond Company, Inc., Trustee, registered in the names of Valentine Paul or Lona Paul, presently in the custody of the Detroit Trust Company, 201 West Fort Street, Detroit 31, Michigan, together with any and all rights thereunder and thereto, and

b. That certain debt or other obligation owing to Valentine Paul or Lona Paul, by the Detroit Trust Company, 201 West Fort Street, Detroit 31, Michigan, representing a cash balance in a Detroit Trust Company safekeeping account, maintained by the aforesaid bank as custodian of the securities referred to in subparagraph 2-a hereof, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by the aforesaid nationals of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 29, 1948.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 48-7492; Filed, Aug. 19, 1948; 8:49 a. m.]

[Vesting Order 11782]

BUNSHU INAMASA

In re: Stock owned by and debt owing to Bunshu Inamasa. F-39-3438-A-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Bunshu Inamasa, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan),

2. That the property described as follows:

a. Those certain shares of stock described in Exhibit A, attached hereto and by reference made a part hereof, registered in the name of and presently in the custody of Schwabacher & Co., 600 Market Street, San Francisco 4, California, together with all declared and unpaid dividends thereon; and

b. That certain debt or other obligation owing to Bunshu Inamasa, by Schwabacher & Co., 600 Market Street, San Francisco 4, California, in the amount of $1,314.10, as of August 13, 1947, together with any and all accruals

thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Bunshu Inamasa, the aforesaid national of a designated enemy country (Japan)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 3, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

EXHIBIT A

Name and address of corporation	State of incorporation	Type of stock	Par value	Certificate No.	Number of shares
Eagle-Picher Lead Co., Cincinnati, Ohio.	Ohio	Common	$10.00	N763	100
The New York Central R. R. Co., 230 Park Ave., New York Central Bldg., New York, N. Y.	New York, Pennsylvania, Ohio, Illinois, Indiana, and Michigan.	Capital	No par	H094491	100
Northern Pacific Ry. Co., 14 Wall St., New York, N. Y.	Wisconsin	do	100.00	A092499	100
The United Corp., 901 Market St., Wilmington, Del.	Delaware	Common	1.00	NC02333	100
Blair Holdings Corp., 44 Wall St., New York, N. Y.	New York	Capital	1.00	SHF1042	5
		do	1.00	SHF1199	1

[F. R Doc. 48-7493; Filed, Aug. 19, 1948; 8:50 a. m.]

[Vesting Order 11722]

WILLIAM THEILE

In re: Trust under the will of William Theile, deceased. File No. D-28-9516; E. T. sec. 12910.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Juliane Petersen, Hans Theile, Christian Theile, Hans Werner Theile, Karla Theile Hauff, Ingo Hauff, Alice Weiss, Ingrid Weiss, Wilma Scholz, Gerhard Scholz, Karl Scholz, and Eberhard Scholz, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany),

2. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraph 1 hereof, and each of them, in and to the trusts created under the will of William Theile, deceased, is property payable or deliverable to, or claimed by the aforesaid nationals of a designated enemy country (Germany)

3. That such property is in the process of administration by Ima Webster Theile and Edwin W. Cooney, as Executors and Trustees, and by John C. Theile, as Trustee, acting under the judicial supervision of the Surrogate's Court of Westchester County, State of New York;

and it is hereby determined:

4. That to the extent that the persons identified in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 27, 1948.

For the Attorney General.

[SEAL] HAROLD I. BAXTHON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 48-7494; Filed, Aug. 19, 1948; 8:50 a. m.]

[Vesting Order 11800]

JOSEPH SALM

In re: Estate of Joseph Salm, deceased. File D-6-1299; E. T. sec. 15991.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Bertha Bitterlich, Dr. Robert Matz, and Otto Matz, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That Karl Schmitzer, who there is reasonable cause to believe is a resident of Germany, is a national of a designated enemy country (Germany),

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the estate of Joseph Salm, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany)

4. That such property is in the process of administration by Joseph A. Matz, as administrator, acting under the judicial supervision of the Probate Court of the City of St. Louis, Missouri;

and it is hereby determined:

5. That to the extent that the persons named in subparagraphs 1 and 2 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 9, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-7495; Filed, Aug. 19, 1948; 8:50 a. m.]

[Vesting Order 11819]

LOUIS BERG

In re: Estate of Louis Berg a/k/a Ludwig Berg, deceased. File D-28-12420; E. T. sec. 16638.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Laura Muller, Phillipine Scheuermann, and August Berg, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the Estate of Louis Berg, also known as Ludwig Berg,

deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany)

3. That such property is in the process of administration by John A. Loebel, as administrator, acting under the judicial supervision of the Probate Court of the State of Ohio, in and for the County of Hamilton;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 10, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-7496; Filed, Aug. 19, 1948; 8:50 a. m.]

[Vesting Order 11820]

FRITZ AUGUST BUEHLER

In re: Estate of Fritz August Buehler, deceased. File D-28-12040; E. T. sec. 16287.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Martha Wachter, Adolf Fetzer, Auguste Stier, Albert Kuhnle, Bertha Fetzer and Martha Kopp, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany),

2. That the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown of Anna Marie Kath Fetzer-Biedermann, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany),

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the estate of Fritz August Buehler, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany)

4. That such property is in the process of administration by Michael M. Kane, as Substitute Administrator, acting under the judicial supervision of the Hudson County Surrogates Court, New Jersey;

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof and the domiciliary personal representatives, heirs, next of kin, legatees and distributees, names unknown of Anna Marie Kath Fetzer-Biedermann, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 10, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-7497; Filed, Aug. 19, 1948; 8:50 a. m.]

[Vesting Order 11821]

KATIE ERHARDT

In re: Estate of Katie Erhardt, deceased. File D-28-12199; E. T. sec. 16412.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Anna Webber, Barbara Wagner, and Agnes Roth, whose last known address was, on May 5, 1943, Germany, were on such date residents of Germany and nationals of a designated enemy country (Germany)

2. That the sum of $1,512.09 was paid to the Attorney General of the United States by William Bauer and Carl H. Erhardt, Co-administrators of the estate of Katie Erhardt, deceased;

3. That the said sum of $1,512.09 was accepted by the Attorney General of the United States on May 5, 1948, pursuant to the Trading With the Enemy Act, as amended;

4. That the said sum of $1,512.09 is presently in the possession of the Attorney General of the United States and was property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which was evidence of ownership or control by, the aforesaid national of a designated country (Germany);

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof were not within a designated enemy country on May 5, 1948, the national interest of the United States required that such persons be treated as nationals of a designated enemy country (Germany) on such date.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of the said property by acceptance as aforesaid.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 10, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-7498; Filed, Aug. 19, 1948; 8:50 a. m.]

[Vesting Order 11823]

CARL BERG

In re: Estate of Carl Berg, also known as Carl Vahlan, deceased. File D-28-4244, E. T. sec. 7333.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Elfriede Windgatter, nee Vahland, Hedwig Drewes, nee Vahland, Hermine Vahland and Hanna Seiler, nee Vahland, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany),

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the estate of Carl Berg, also known as Carl Vahlan, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

3. That such property is in the process of administration by the Treasurer of Monroe County, Michigan, as Depositary, acting under the judicial supervision of the Probate Court of Monroe County, Michigan;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 10, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-7500; Filed, Aug. 19, 1948; 8:50 a. m.]

[Supp. Vesting Order 11832]

JACOB HORNER

In re: Estate of Jacob Horner, deceased. File No. D-28-1967; E. T. sec. 1999.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Andreas Horner and Richard Horner, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof and each of them, in and to the Estate of Jacob Horner, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany),

3. That such property is in the process of administration by Herman B. Forman, as surviving executor, acting under the judicial supervision of the Surrogate's Court, Queens County, New York;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 10, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-7499; Filed, Aug. 19, 1948; 8:50 a. m.]